2015 IL App (4th) 130780-U

NO. 4-13-0780

FILED
December 10, 2015
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Coles County
WILLIE J. HALL,	)	No. 11CF448
Defendant-Appellant.	)	
	)	Honorable
	)	Mitchell K. Shick,
	)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.
Justices Holder White and Appleton concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court affirmed defendant's convictions, finding (1) he was not deprived of a fair trial, (2) his claim of ineffective assistance of counsel is better suited for postconviction proceedings, and (3) his convictions for both home invasion and residential burglary do not violate the one-act, one-crime rule.

¶ 2 In May 2013, a jury found defendant, Willie J. Hall, guilty of the offenses of home invasion, residential burglary, and robbery. In July 2013, the trial court sentenced defendant to consecutive prison terms of 30 years for home invasion, 6 years for robbery, and 6 years for residential burglary.

¶ 3 On appeal, defendant argues (1) he was deprived of a fair trial, (2) he was denied the effective assistance of counsel, and (3) his conviction for residential burglary must be vacated based on the one-act, one-crime rule. We affirm.

¶ 4 I. BACKGROUND

¶ 5 On October 15, 2011, at around 3:30 a.m., a group of men broke into the home of Donald and Lily Griffin in Mattoon. Donald was pulled from his bed and beaten by one of the men, who demanded money. Lily awoke to the noises in Donald's room and was grabbed by another of the assailants. Lily went to a file cabinet, opened it, and gave two envelopes containing cash to the men. The men then took Donald and Lily into the garage, where Donald was forced into his car, while Lily stood facing the door. The men told Lily not to call the police, then took a shotgun and other items as they left the house. When Lily saw Donald was injured, she called the police. Both Donald and Lily believed their granddaughter's boyfriend, Jose Morrison, was one of the men who broke into the house.

¶ 6 Jose Morrison, Devin Aikens, Jermaine Bunch, and defendant were arrested and charged in connection with the incident at the Griffins' home. The State charged defendant by information with single counts of home invasion (count I) (720 ILCS 5/12-11(a)(2) (West 2010)), robbery (count II) (720 ILCS 5/18-1 (West 2010)), and residential burglary (count III) (720 ILCS 5/19-3(a) (West 2010)). Count I alleged defendant committed the offense of home invasion when he, not acting as a peace officer in the line of duty, knowingly and without authority entered the dwelling place of Donald and Lily Griffin and intentionally caused injury to Donald by striking him about his head and body with his fists and hands. Count II alleged defendant committed the offense of robbery when he knowingly took property, being United States currency, a rifle, and a watch, from Donald and Lily by the use of force. Count III alleged defendant committed the offense of residential burglary when he knowingly and without authority entered the dwelling place of Donald and Lily with the intent to commit therein a theft. Defendant pleaded not guilty.

¶ 7 In October 2012, defendant's jury trial commenced but ended in a mistrial, after

the jury was unable to reach a verdict. Following the mistrial, Morrison, Aikens, and Bunch all entered into negotiated plea agreements to various charges. Defendant sought another jury trial.

¶ 8 In May 2013, defendant's second jury trial commenced. Heather Nicolas testified she is the granddaughter of Donald and Lily Griffin. She used to be engaged to Jose Morrison, and he is the father of two of her three children. While she and Morrison were dating, she would go to her grandparents' home, where Donald would cash checks for her. Nicolas testified Morrison knew that her grandfather cashed checks for her and knew where he kept the money.

¶ 9 On October 15, 2011, Morrison texted Nicolas shortly after midnight and asked to meet her at a Laundromat in Mattoon. She met and talked with him before returning home. She did not know where Morrison had been or where he went after meeting her. She stated Morrison's receipt of Social Security benefits was related to his schizophrenia.

¶ 10 Donald Griffin, who was 82 years old at the time of the incident, testified he was awakened in the early morning hours of October 15, 2011, and pulled out of bed. A male wanted to know where the money was and hit Donald five or six times. Donald then told the male the money was in the file cabinet. Donald and three males went to the room containing the file cabinet and Lily opened it. After the males took the money, they walked Donald and Lily to the garage and put Donald in the car. When the car alarm went off, the males took off running.

¶ 11 Lily Griffin, who was 74 years old at the time of the incident, testified she awoke upon hearing noises from Donald's bedroom. She walked to his room and saw a black male beating Donald. She was grabbed by a male and saw another black male coming through the living room. The men wanted money and went to the room where the file cabinet was located. Lily opened the file cabinet and gave them two envelopes filled with cash. The males then walked Lily and Donald to the garage. They put Donald in the car and told Lily to stand facing

the door. One of the men threatened to kill Lily if she called the police. After the men left and seeing Donald's swollen face, she called the police. Lily testified she thought she recognized the voice of one of the men as Morrison's, but she did not recognize the other two men.

¶ 12 Carrie Peterson testified she and Morrison were in a relationship in October 2011. While she was at her mother's home in Rantoul on October 14, 2011, Morrison and defendant came over. Shortly after 7 p.m., Peterson took Morrison to his mother's house so he could take a shower. She returned thereafter to pick him up and found defendant there as well. Those three, along with Aikens and Bunch, traveled down to Mattoon between 9 and 10 p.m. They went to a party and left at about 1 a.m. They went to McDonald's before ending up at a gas station parking lot. The four males exited the car, and Peterson remained at the gas station. Sometime later, Peterson received a phone call from Morrison, who told her to drive down the street to the high school parking lot. The four men returned, and Peterson stated, "they had something wrapped up in a sheet or a blanket." Peterson, along with the four men, drove away. She heard the males discuss "something about an envelope" and that one was missing. Peterson testified they stopped at a Sonic restaurant in Champaign, and Bunch talked with a male. Peterson then drove to an apartment complex, and Bunch took the object in the trunk into the apartment. The five eventually made their way back to Rantoul.

¶ 13 Peterson stated the police came to her house on October 15, 2011. She later talked with defendant at a gas station and told him that Morrison had been arrested. Peterson stated defendant explained how the males broke into the Griffins' house and he hit Donald repeatedly.

¶ 14 Jose Morrison testified he pleaded guilty to the charges of home invasion and residential burglary of the Griffins' home. A robbery charge was dismissed, and special findings

were made so that he would be placed in a minimum security facility. He was sentenced to 22 years in prison. He agreed to testify truthfully in defendant's case. Morrison also testified he was convicted of a Class 3 felony and a Class 2 felony of robbery in Champaign County.

¶ 15 Morrison stated he was involved in a relationship with Nicolas prior to October 2011. He had met her grandparents on multiple occasions. He also knew through Nicolas that the Griffins kept cash in the house. On October 14, 2011, Morrison went with Peterson, Aikens, Bunch, and defendant to party in Mattoon. Before they left Rantoul, Morrison had been drinking vodka, smoking marijuana, and taking Xanax, Vicodin, Tylenol, and prescription pills. At some point, Morrison decided to commit a crime to get money and they ended up at the Griffins' house. The four males approached the house, broke a window to the garage, and Aikens, Morrison, and defendant entered. Morrison stated Bunch ran back to the car and did not enter the property. Once inside, Morrison saw defendant "putting his hand on Mr. Griffin" and "pretty much punching him." Morrison stated Aikens grabbed Lily, and Aikens and defendant demanded money. Once Lily opened the file cabinet, Aikens removed the envelopes and gave one to defendant. Donald and Lily were taken to the garage, where Morrison saw a gun in the corner. Defendant picked up the gun, and the three males left. Upon arriving at the car, they put the gun in the trunk. The males and Peterson eventually made their way back to Rantoul.

¶ 16 Morrison stated he was arrested later that day and gave two statements to the police. In the first statement, he told the police who was with him but did not tell the truth because he was scared. During the second statement, Morrison stated defendant, Aikens, Bunch, and Peterson were with him. He stated he told the truth because he thought of his children and knew he was "facing a lot of time" if he took full responsibility.

¶ 17 Devin Aikens testified he pleaded guilty to residential burglary involving the

Griffins' home and the charges for home invasion and robbery were dismissed. He was sentenced to 20 years in prison. Part of the agreement required him to testify truthfully against defendant. Aikens also had prior convictions for misdemeanor theft, burglary, and residential burglary.

¶ 18 Aikens testified he left Rantoul on October 14, 2011, with defendant, Morrison, Bunch, and Peterson to go to a party in Mattoon. After partying and doing drugs, Morrison talked about a house that he knew had money in it. Aikens stated Morrison broke a window of the house, and Aikens, Morrison, and defendant entered. Bunch "took off running." Aikens went to a bedroom and saw "an old man sleeping." He backed out and bumped into Lily. Aikens grabbed her, told her he did not want to hurt her, and demanded the money. Lily led him to the file cabinet and the money. Aikens stated he removed two envelopes and put them in his jacket pocket. The males proceeded to the garage, and Aikens stated he "got a gun from somewhere inside the garage." The males left, returned to Peterson's car, and Aikens put the gun inside the trunk.

¶ 19 Jermaine Bunch testified he pleaded guilty to possession of a stolen firearm for his actions in this case and received a three-year sentence. He was also required to testify truthfully in defendant's case. He had a Class 4 felony conviction out of Champaign County. On October 14, 2011, he went to Mattoon with defendant, Morrison, Aikens, and Peterson. After partying, the four males made their way to the Griffins' house. After Morrison broke a window, Bunch walked off and went back to the car. Morrison, defendant, and Aikens returned to the car after 10 to 15 minutes, and Aikens had a gun in his hand. Bunch heard the other three males discuss what went on inside the house, including that defendant "was controlling the old man," or holding him down.

¶ 20 Michael Hines testified he worked at Sonic in Champaign. On October 15, 2011, he received several calls from Bunch while he was asleep. The two agreed to meet at Sonic, and Bunch arrived in a car with three other males and a female. Hines knew Bunch and defendant but did not know the others. Bunch received permission to leave something at Hines' apartment. When Hines returned home after work, he found a shotgun in the closet. Hines later allowed the police to take the shotgun.

¶ 21 Mattoon police sergeant John McCain testified he processed the crime scene on October 15, 2011. He collected latent fingerprints from the garage and file cabinet and the fingerprints were submitted for analysis.

¶ 22 Brian Long, a forensic scientist with the Illinois State Police, testified he compared the latent prints to known standards for Morrison, Aikens, defendant, and the Griffins. He had 55 latent prints suitable for comparison and 1 print matched Morrison, 19 matched Lily, and 2 matched Donald. None of the prints matched defendant, he was excluded from 29 of the prints, and 4 prints were inconclusive as to him.

¶ 23 Mattoon police lieutenant Jonathan Seiler testified he interviewed Morrison on two separate occasions. During the first interview, Morrison admitted his involvement in the home invasion and stated he was with Kevin Parker and two other guys. Seiler knew Parker was a white male, and confronting Morrison with this information, Morrison identified additional individuals. Following the interview, Seiler stated the police wanted to speak with defendant, Aikens, Bunch, and Peterson.

¶ 24 Seiler stated Aikens was arrested in California and interviewed in March 2012. Aikens admitted his involvement in the home invasion. Bunch was arrested and interviewed on October 18, 2011, and admitted his involvement. After speaking with Bunch, Seiler went to

Hines' apartment and recovered a shotgun. Seiler stated defendant was arrested in Alabama in November 2011.

¶ 25 After the State rested, defendant presented an alibi defense. Whytney Hall, defendant's sister, testified she lived with her mother, her daughter, and defendant in Rantoul in October 2011. On October 14, 2011, Whytney, her boyfriend, Kryshun Gray, and defendant attended a high school football game in Champaign. After the game, they returned to Rantoul. They left at approximately 11 p.m. to go to a club. They stayed until the club closed at 2 a.m. and then proceeded to the International House of Pancakes (IHOP). They returned home at 4:15 a.m.

¶ 26 On Sunday, Hall's mother took Gray and Whytney to the bus station in Champaign so Gray could return to his home in Alabama. On Monday, Whytney, her daughter, and defendant took a bus to Alabama. They had originally planned to go to Alabama in July but postponed the trip until October, as their mother was recovering from surgery.

¶ 27 Kryshun Gray testified he went to the football game on October 14, 2011, with Whytney and defendant. Thereafter, they went to a club and then IHOP. He returned to Alabama on October 16, 2011. Whytney traveled to Alabama the next day.

¶ 28 Sharon Leshoure, the mother of defendant and Whytney, testified defendant, Whytney, and Gray left around 7 p.m. on October 14, 2011. They returned about 9 p.m. and left. They returned back to the residence "a little bit" after 4 a.m. She stated Gray left for Alabama on Sunday and defendant and Whytney left on Monday.

¶ 29 Defendant elected not to testify. In rebuttal, the State called Herbert Leshoure, who then resided in the Department of Corrections. On October 15, 2011, his wife Sharon asked him for money and to borrow his car because defendant had gotten into trouble. He gave her

$100 but did not let her borrow his car. He stated Sharon contacted him again in late October or early November 2011 and told him defendant had gone to Mattoon and gotten into trouble, so she took him to Alabama so the police would not hurt him.

¶ 30 Following closing arguments, the jury found defendant guilty of home invasion, robbery of a person over 60 years old, and residential burglary. The jury also found the State proved the allegation that the offenses were committed against a person 60 years of age or older.

¶ 31 In July 2013, the trial court sentenced defendant to consecutive prison terms of 30 years for home invasion, 6 years for robbery, and 6 years for residential burglary. In August 2013, defendant filed a motion to reconsider, which the court denied. This appeal followed.

¶ 32 II. ANALYSIS

¶ 33 A. Right to a Fair Trial

¶ 34 Defendant argues he was denied a fair trial where the trial court prevented him from presenting a complete defense by restricting his cross-examination and impeachment of Morrison regarding his mental-health issues. We disagree.

¶ 35 Initially, we note defendant acknowledges trial counsel did not raise this issue in a posttrial motion. Thus, the issue is forfeited on appeal. See *People v. Hestand*, 362 Ill. App. 3d 272, 279, 838 N.E.2d 318, 324 (2005) (a defendant must object at trial and raise the issue in a posttrial motion to preserve the issue for review). Defendant, however, asks this court to review the issue as a matter of plain error.

¶ 36 The plain-error doctrine allows a court to disregard a defendant's forfeiture and consider unpreserved error when either:

> "(1) the evidence is so closely balanced that the error alone threatened to tip the scales of justice against the defendant; or (2)

> the error was so fundamental and of such magnitude that it affected the fairness of the trial and challenged the integrity of the judicial process, regardless of the closeness of the evidence." *People v. Wilmington*, 2013 IL 112938, ¶ 31, 983 N.E.2d 1015.

¶ 37 Under both prongs of the plain-error analysis, the burden of persuasion remains with the defendant. *Wilmington*, 2013 IL 112938, ¶ 43, 983 N.E.2d 1015. As the first step in the analysis, we must determine whether any error occurred at all. *People v. Taylor*, 2011 IL 110067, ¶ 30, 956 N.E.2d 431. "If error did occur, we then consider whether either prong of the plain-error doctrine has been satisfied." *People v. Sykes*, 2012 IL App (4th) 111110, ¶ 31, 972 N.E.2d 1272.

¶ 38 In this case, defendant's theory was that he was not involved in the offenses against the Griffins. Thus, defense counsel sought to attack the credibility of the State's witnesses who implicated defendant. In regard to Morrison, counsel sought to impeach his credibility as a witness by cross-examining him about his mental illness and drug addiction. For his role in this case, Morrison entered into a negotiated plea of guilty but mentally ill, in exchange for a 22-year sentence and a special finding of mental illness, the latter of which would allow him to be held in a less secure facility and have treatment available to him. His diagnoses included alcohol dependence, polysubstance dependence, adjustment disorder with anxious mood, bipolar one disorder, depression, learning disorder, and borderline intellectual functioning personality disorder mixed type with immature and antisocial features.

¶ 39 Prior to Morrison's testimony, defense counsel indicated his desire to bring out Morrison's mental-health issues to allow the jury to question his believability. The trial court expressed its concern about mentioning a finding of mentally ill to the jury "because the jury

doesn't have a background or sophistication to understand exactly what that means." The court stated any questions regarding Morrison's negotiations would be restricted to the "special finding" and not mention "mentally ill."

¶ 40 In both the federal and state constitutions, a criminal defendant has the right to be confronted with the witnesses against him. U.S. Const., amend. VI; Ill. Const. 1970, art. I, § 8. A defendant's constitutional right to confrontation includes the right to cross-examine the State's witnesses. *Douglas v. Alabama*, 380 U.S. 415, 418 (1965). "Any permissible matter which affects the witness's credibility may be developed on cross-examination." *People v. Kliner*, 185 Ill. 2d 81, 130, 705 N.E.2d 850, 876 (1998). For example, "a defendant has the right to inquire into a witness' bias, interest or motive to testify falsely." *People v. Davis*, 185 Ill. 2d 317, 337, 706 N.E.2d 473, 482 (1998).

¶ 41 That said, " 'the Confrontation Clause guarantees [a defendant] an *opportunity* for effective cross-examination, not cross-examination that is effective in whatever way, and to whatever extent, the defense might wish.' (Emphasis in original.)" *People v. Harris*, 123 Ill. 2d 113, 144-45, 526 N.E.2d 335, 348 (1988) (quoting *Delaware v. Fensterer*, 474 U.S. 15, 20 (1985)). The scope of cross-examination lies within the discretion of the trial court, and we will not overturn its decision absent a clear abuse of that discretion. *People v. Kirchner*, 194 Ill. 2d 502, 536, 743 N.E.2d 94, 112 (2000).

> "When determining whether a denial of cross-examination violates the defendant's right of confrontation, we should look not to what defendant has been prohibited from doing, but to what he has been allowed to do. [Citation.] The issue under the confrontation clause is whether the jury has been made aware of adequate factors

> to determine whether the witness is worthy of belief, not whether any particular limitation has been placed on defendant's ability to cross-examine a witness or whether the jury has knowledge of any specific fact. [Citation.] If the entire record shows that the jury has been made aware of adequate factors concerning relevant areas of impeachment of a witness, no constitutional question arises merely because the defendant has been prohibited on cross-examination from pursuing other areas of inquiry." *People v. Sykes*, 341 Ill. App. 3d 950, 978, 793 N.E.2d 816, 841 (2003).

¶ 42 In this case, the jury was made aware of adequate factors to determine whether Morrison was worthy of belief. The jury was informed he pleaded guilty to home invasion and residential burglary in this case and was sentenced to 22 years in prison. This agreement included the special finding that he be placed in a minimum security facility and that he testify truthfully against defendant. The jury was also informed that Morrison had a prior felony conviction in 2008 and a conviction for felony robbery in 2009. Other evidence established Morrison had consumed large quantities of vodka, marijuana, Xanax, Vicodin, Tylenol, ecstasy, cocaine, and prescriptions pills on the night of the offense, had trouble remembering details because of his long history of drug and substance abuse, gave a false statement to the police, and gave a statement to the police implicating defendant because he believed he would get more time and "never get out" if he "took the rap" by himself. Morrison was further impeached with inconsistencies between his prior testimony, statements to the police, and his testimony at trial. Evidence was also presented that Morrison was schizophrenic and had a history of blacking out when he used too many drugs. Considering all of this, the jury had ample evidence upon which

to judge Morrison's credibility and to determine whether he was worthy of belief. Further, the limitation placed on cross-examination did not deny defendant the opportunity to test Morrison's credibility. As defense counsel presented relevant areas of impeachment of Morrison, no confrontation violation exists. Because we have found no error occurred, we hold defendant to his forfeiture of this issue.

¶ 43 B. Assistance of Counsel

¶ 44 Defendant argues he was denied the right to effective assistance of counsel where counsel failed to object to the State's improper bolstering of its witnesses and failed to impeach the State's witnesses with available information. We decline to address defendant's claim on direct appeal.

¶ 45 A defendant's claim of ineffective assistance of counsel is analyzed under the two-pronged test set forth in *Strickland v. Washington*, 466 U.S. 668 (1984). *People v. Cathey*, 2012 IL 111746, ¶ 23, 965 N.E.2d 1109. To prevail on such a claim, "a defendant must show both that counsel's performance was deficient and that the deficient performance prejudiced the defendant." *People v. Petrenko*, 237 Ill. 2d 490, 496, 931 N.E.2d 1198, 1203 (2010). To establish deficient performance, the defendant must show his attorney's performance fell below an objective standard of reasonableness. *People v. Evans*, 209 Ill. 2d 194, 219, 808 N.E.2d 939, 953 (2004) (citing *Strickland*, 466 U.S. at 687-88). Prejudice is established when a reasonable probability exists that, but for counsel's unprofessional errors, the result of the proceeding would have been different. *Evans*, 209 Ill. 2d at 219-20, 808 N.E.2d at 953 (citing *Strickland*, 466 U.S. at 694). A defendant must satisfy both prongs of the *Strickland* standard, and the failure to satisfy either prong precludes a finding of ineffective assistance of counsel. *People v. Clendenin*, 238 Ill. 2d 302, 317-18, 939 N.E.2d 310, 319 (2010).

¶ 46 In the case *sub judice*, defendant argues counsel was ineffective for (1) failing to object to testimony by Morrison and Seiler regarding prior consistent statements to bolster their credibility; (2) failing to impeach Morrison, Aikens, and Bunch regarding the favorable sentences they received as part of their plea agreements; and (3) permitting the State to use the mere-fact impeachment method when confronting Morrison, Bunch, and Herbert Leshoure about their prior convictions.

¶ 47 In *People v. Kunze*, 193 Ill. App. 3d 708, 726, 550 N.E.2d 284, 296 (1990), this court held the adjudication of an ineffective-assistance-of-counsel claim is often better made in postconviction proceedings, where a complete record can be made. For example, we have found that, without an explanation from trial counsel, this court could not properly determine whether the trial counsel's actions involved the exercise of judgment, discretion, or trial tactics, which are not reviewable matters; and thus, we recommended a postconviction petition was a better forum for adjudication of the ineffective-assistance claim. *People v. Flores*, 231 Ill. App. 3d 813, 827-28, 596 N.E.2d 1204, 1213-14 (1992). Additionally, we have explained the resolution of a criminal defendant's ineffective-assistance claim is usually more appropriate for postconviction proceedings because the record on direct appeal in a criminal case rarely contains anything explaining the trial counsel's tactics. *In re Carmody*, 274 Ill. App. 3d 46, 56, 653 N.E.2d 977, 984 (1995); see also *People v. Kirklin*, 2015 IL App (1st) 131420, ¶ 127, 29 N.E.3d 481 (stating "[a] collateral proceeding is generally a better forum for adjudication of ineffective assistance claims"). "Thus, if 'those trial tactics are to be the subject of scrutiny, then a record should be developed in which they can be scrutinized.' " *Carmody*, 274 Ill. App. 3d at 56, 653 N.E.2d at 984 (quoting *People v. Fields*, 202 Ill. App. 3d 910, 917, 560 N.E.2d 1220, 1224 (1990) (Steigmann, J., specially concurring)). Accordingly, we decline to address defendant's

ineffective-assistance-of-counsel claim at this juncture. Rather, defendant may pursue the claim under the Post-Conviction Hearing Act (725 ILCS 5/122-1 to 122-7 (West 2014)).

¶ 48 C. One-Act, One-Crime Rule

¶ 49 Defendant argues his conviction and sentence for residential burglary must be vacated where it was based on entering the home, which is the same physical act as his conviction for home invasion. Defendant acknowledges he failed to raise this issue at trial or in a postsentencing motion and urges this court to review the matter under the plain-error doctrine. Our supreme court has held a violation of the one-act, one-crime rule results in a surplus conviction and sentence and affects the integrity of the judicial process, and thus satisfies the second prong of the plain-error rule. See *People v. Harvey*, 211 Ill. 2d 368, 389, 813 N.E.2d 181, 194 (2004).

¶ 50 In *People v. King*, 66 Ill. 2d 551, 566, 363 N.E.2d 838, 844 (1977), our supreme court declared a criminal defendant may not be convicted of multiple offenses when those offenses are all based on precisely the same physical act. Since multiple convictions cannot be based on precisely the same physical act, "a court first determines whether a defendant's conduct consisted of separate acts or a single physical act." *People v. Rodriguez*, 169 Ill. 2d 183, 186, 661 N.E.2d 305, 306 (1996). The *King* court defined "act" as "any overt or outward manifestation which will support a different offense." *King*, 66 Ill. 2d at 566, 363 N.E.2d at 844-45. In *Rodriguez*, 169 Ill. 2d at 188, 661 N.E.2d at 308, our supreme court further explained a defendant could be convicted of two offenses when a common act is part of both offenses. " 'As long as there are multiple acts as defined in *King*, their interrelationship does not preclude multiple convictions ***.' " (Emphasis omitted.) *Rodriguez*, 169 Ill. 2d at 189, 661 N.E.2d at 308 (quoting *People v. Myers*, 85 Ill. 2d 281, 288, 426 N.E.2d 525, 538 (1981)). If the court

determines the defendant committed multiple acts, the court moves to the second step and determines whether any of the offenses were lesser-included offenses. *Rodriguez,* 169 Ill. 2d at 186, 661 N.E.2d at 306.

¶ 51 In the case *sub judice*, the State charged defendant with residential burglary, alleging he knowingly and without authority entered the dwelling place of the Griffins with the intent to commit therein a theft. The State also charged him with home invasion, alleging he, not acting as peace officer in the line of duty, knowingly and without authority entered that same dwelling place, knowing persons to be present, and intentionally caused injury to Donald.

¶ 52 In *People v. McLaurin*, 184 Ill. 2d 58, 106, 703 N.E.2d 11, 34 (1998), the supreme court found the offenses of home invasion and residential burglary had been carved from the same physical act of the defendant's entering the dwelling of the victim and vacated the residential-burglary conviction and sentence at the first step of the *King* analysis. In *People v. Price*, 2011 IL App (4th) 100311, ¶ 27, 958 N.E.2d 341, a case also involving a one-act, one-crime rule claim and the offenses of home invasion and residential burglary, this court distinguished *McLaurin* because the supreme court "did not address its earlier decision in *Rodriguez* or the fact the home-invasion offense required the additional physical act of causing injury to a person in the dwelling." We also found the *McLaurin* court's decision regarding home invasion and residential burglary was inconsistent with its earlier holding in the same case regarding the offenses of intentional murder and home invasion. *Price*, 2011 IL App (4th) 100311, ¶ 28, 958 N.E.2d 341.

¶ 53 We continue to adhere to our ruling in *Price*. Since the home invasion and residential-burglary convictions share only the act of entry, and home invasion requires the additional act of causing injury to a resident, we find home invasion and residential burglary are

not carved out of the same physical act. Since defendant does not argue residential burglary is a lesser-included offense of home invasion, we need not engage in a second-step analysis. Accordingly, we conclude defendant's convictions for both home invasion and residential burglary do not violate the one-act, one-crime rule.

¶ 54 III. CONCLUSION

¶ 55 For the reasons stated, we affirm the trial court's judgment. As part of our judgment, we award the State its $75 statutory assessment against defendant as costs of this appeal.

¶ 56 Affirmed.