

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).

FIRST DIVISION
March 21, 2016

No. 1-13-3772
2016 IL App (1st) 133772-B

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN THE INTEREST OF KENYATTA T., a minor,)	
)	
(PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Petitioner-Appellee,)	Cook County
)	
v.)	No. 12 JD 04973
)	
KENYATTA T.,)	Honorable
)	Stuart P. Katz,
Respondent-Appellant.))	Judge Presiding.

JUSTICE CONNORS delivered the judgment of the court.
Justices Cunningham and Harris concurred with the judgment.

ORDER

Held: State proved respondent committed aggravated battery beyond a reasonable doubt when it proved respondent caused great bodily harm to victim; probation not a violation of equal protection because respondent cannot establish that she is similarly situated to adult offenders; sentence must be modified to terminate when respondent turns 21 years old; adjudication of delinquency for one count of aggravated battery, and battery, violates one-act one-crime rule and must be vacated; respondent required to register under the Violent Offender Act.

¶ 1 Respondent Kenyatta T. was charged in a petition for adjudication of wardship with two counts of aggravated battery and one count of battery. Following a bench trial, a finding of delinquency was entered against respondent on all counts. The trial court sentenced respondent to a term of five years' probation and 30 hours of community service. Respondent now appeals the adjudication of delinquency and the sentence. For the following reasons, we affirm the trial court's adjudication of delinquency on one count of aggravated battery, but vacate the adjudication of delinquency on the other counts of aggravated battery and battery. We also modify respondent's sentence to terminate when she turns 21 years of age, and affirm her requirement to register under the Murderer and Violent Offender Against Youth Registration Act (730 ILCS 154/5(a)(2), 10 (West 2012)).¹

¶ 2 I. BACKGROUND

¶ 3 Respondent, who was 16 years old at the time of the incident, was charged with two counts of aggravated battery and one count of battery in connection with the stabbing of Camrey A., also a minor. The following evidence was presented at trial.

¶ 4 Chicago Police Officer Willie Crowder testified that on December 16, 2012, at approximately 8 p.m., he was called to the area of 3402 South Prairie Avenue in Chicago in response to a stabbing. The victim was standing on the sidewalk with a bloody towel on her neck and her arm. Officer Crowder called an ambulance for the victim. While they were waiting for the ambulance, Officer Crowder spoke to the victim and got the name of the person who stabbed her. He also spoke to a witness who described the offender and what she was wearing. Officer Crowder sent a "flash message" with a description of the offender, and respondent was arrested soon after.

¹ This court was directed by supervisory order to vacate its prior order in this case in light of our supreme court's recent decision in *In re M.A.*, 2015 IL 118049.

¶ 5 Officer Crowder testified that a bloody steak knife with a black handle was recovered about a quarter of a block away from the scene.

¶ 6 Camrey A., the victim, testified that prior to December 16, 2012, she and the respondent had been friends. Starting in October of 2012, they began to have verbal arguments. On the date in question, the victim went to 3402 South Prairie, with three or four friends, to have a conversation with respondent and be cordial. No one answered the door, so the victim and her friends waited outside. When respondent eventually came outside, she was wearing a hood and had her hands in her pockets.

¶ 7 The victim testified that she told respondent she wanted to be friends but respondent pushed her. The victim pushed back, and then respondent gave the victim a "left hook to the face." The victim again pushed back and the two began punching each other. The victim felt a "pop" in her left knee and fell down. The fight continued from the ground until a friend pulled them apart. Respondent ran off towards "the McDonald's."

¶ 8 The victim noticed that her neck was bleeding and that she had a stab wound in her left arm. The victim showed the courtroom a two-and-a-half-inch scar on her neck, and a two-to-three-inch scar on her left forearm. The victim testified that she had a stab wound on the back of her arm, above her left knee, under her right cheek, and on the right side of her hip. The victim received eight to ten stitches in her arm, and has had physical therapy for her knee. She still walks with a limp.

¶ 9 At the close of evidence, the trial court noted that even if this was a mutual combat situation, or if the victim had been the initial aggressor, it would not matter because respondent used deadly force by using a knife in a situation that did not justify deadly force. The trial court found respondent guilty of all three counts based on the evidence. The trial court found that it

was in the best interest of the respondent to be adjudged a ward of the court and to be placed on five years of probation, 30 hours of community service, and mandatory school. The trial court also required respondent to register under the Violent Offender Against Youth Registration Act. Respondent now appeals.

¶ 10

II. ANALYSIS

¶ 11

A. Sufficiency of Evidence

¶ 12 On appeal, respondent first contends that the State failed to prove her guilty of aggravated battery beyond a reasonable doubt because it failed to prove that respondent caused great bodily harm to the victim. When a defendant challenges the sufficiency of the evidence, it is not the function of this court to retry the defendant. *People v. Evans*, 209 Ill. 2d 194, 209 (2004). A reviewing court must determine whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Evans*, 209 Ill. 2d at 209. We will not reverse a conviction unless the evidence is so unreasonable, improbable, or unsatisfactory that it raises a reasonable doubt of defendant's guilt. *Id.*

¶ 13 A person commits battery when she "knowingly without legal justification by any means causes bodily harm to an individual." 720 ILCS 5/12-3(a)(1) (West 2012). Aggravated battery occurs when a person "in committing battery, other than by discharge of a firearm, knowingly causes *great* bodily harm or permanent disability or disfigurement." 720 ILCS 5/12-3.05(a)(1) (West 2012) (emphasis added). What constitutes "great bodily harm" is a question of fact to be determined by the trier of fact. *People v. Crespo*, 203 Ill. 2d 335, 344 (2001). "Bodily harm as it relates to ordinary battery requires 'some sort of physical pain or damage to the body, like lacerations, bruises or abrasions.'" *People v. Mimes*, 2011 IL App (1st) 082747, ¶ 29 (quoting

People v. Mays, 91 Ill. 2d 251, 256 (1982)). Great bodily harm then must be more serious or grave than lacerations, bruises, or abrasions. *In re J.A.*, 336 Ill. App. 3d 814, 817 (2003). Great bodily harm does not require hospitalization of the victim, or permanent disability or disfigurement, but instead centers on the injuries the victim received. *People v. Lopez-Bonilla*, 2011 IL App (2d) 100688, ¶ 13. "What the victim did to treat the injuries is irrelevant. *Id.* [A]s long as the evidence was sufficient to support a finding of great bodily harm, the trial court's determination will be affirmed." *Id.* at ¶ 14.

¶ 14 Here, the victim testified that during her fight with respondent, she felt a pop in her knee and fell to the ground. She then discovered she had been stabbed several times. She received eight to ten stitches in her arm, and has a two and a half inch scar on her neck and two to three inch scar on her arm. The victim further testified that she is receiving physical therapy for her knee and that she walks with a limp. We find that a rational trier of fact could have found that these injuries constituted more than mere lacerations, abrasions, or bruises. Accordingly, this evidence was sufficient to support a finding of great bodily harm, and thus the trial court's determination will be affirmed. Respondent's reliance on *In re T.G.*, 285 Ill. App. 3d 838 (1996) and *People v. Watkins*, 243 Ill. App. 3d 271 (1993), does not convince us otherwise.

¶ 15 In *T.G.*, the victim received three stab wounds in his chest. He felt the first stab which he described as being poked with a pen or pencil, but there was no evidence he felt the other two. He did not realize he had been stabbed until after he noticed his shirt was cut. When he opened his shirt, he saw three bloody wounds. The court found that there "was no other evidence of the extent or nature of his injuries," and thus the court concluded great bodily harm was not proven beyond a reasonable doubt. *In re T.G.*, 285 Ill. App. 3d at 846. In the case at bar, the victim

described in detail the extent of her injuries and showed them to the trial court. She also testified that she was in physical therapy for a knee injury and was walking with a limp.

¶ 16 In *Watkins*, the evidence established that a bullet "only grazed [the victim's] chest and caused holes in his clothing." *Watkins*, 243 Ill. App. 3d at 277. The court found that the evidence did not support a finding that the victim suffered great bodily harm because "the record here leaves substantial question regarding the extent of [the victim's] injuries." *Id.* at 278. In the case at bar, there was no question regarding the extent of the victim's injuries, and thus we find that the evidence supported a finding of great bodily harm.

¶ 17 B. Equal Protection Clause

¶ 18 Respondent's next argument on appeal is that the Juvenile Act's statutory requirement that she must serve a probation term of at least five years for committing the forcible felony of aggravated battery predicated on great bodily harm violates the equal protection clauses of both the United States Constitution and the Illinois Constitution. In conducting an equal protection analysis, this court applies the same standards under the United States Constitution and the Illinois Constitution. *Wauconda Fire Protection District v. Stonewall Orchards, LLP*, 214 Ill. 2d 417, 434 (2005). The equal protection clause guarantees that similarly situated individuals will be treated in a similar fashion, unless the government can demonstrate an appropriate reason to treat them differently. *People v. Whitfield*, 228 Ill. 2d 502, 512 (2007). The equal protection clause does not forbid the legislature from drawing proper distinctions in legislation among different categories of people, but it does prohibit the government from doing so on the basis of criteria wholly unrelated to the legislation's purpose. *Wauconda Fire Protection District*, 214 Ill. 2d at 434. Where fundamental rights are not at issue, this court applies a rational basis scrutiny

and considers whether the challenged classification bears a rational relationship to a legitimate governmental purpose. *Whitfield*, 228 Ill. 2d at 512.

¶ 19 As the State argues, respondent has failed to meet the threshold requirement for an equal protection claim because respondent cannot establish that she is similarly situated to adult offenders convicted of aggravated battery. An adult convicted of aggravated battery is subject to a possible sentence of two to five years' imprisonment and a one-year MSR term. 720 ILCS 5/12-3.05(h) (West 2012); 730 ILCS 5/5-4.5-40(a), (1) (West 2012). In contrast, respondent never faced the possibility of an adult sentence, and instead received a sentence that was to automatically terminate when she reaches 21 years of age. 705 ILCS 405/5-755(1) (West 2012). Accordingly, respondent cannot meet the threshold requirement that she is similarly situated to adult offenders.

¶ 20 Moreover, we find the case of *In re Jonathon C.B.*, 2011 IL 107750, to be helpful. In that case, the Illinois Supreme Court found that the respondent, a juvenile sex offender who claimed that the failure to provide him a right to a jury trial violated equal protection when such right was provided to adult sex offenders, was not similarly situated to adult sex offenders. The court found that respondent did not face the possibility of an adult sentence, but rather his sentence automatically terminated when he reached the age of 21. *In re Jonathon C.B.*, 2011 IL 107750, ¶ 117-18. The court found that the respondent "was not subject to the severe deprivation of liberty of an adult sentence, and thus, was not similarly situated to *** adult sex offenders." *Id.* at ¶ 118. Because the respondent was not similarly situated to adults facing felony sex offense charges, our supreme court noted that it did not need to consider whether there was a rational basis for granting jury trials to adult sex offenders and not minors charged with felony sex

offenses. Accordingly, the respondent failed to establish that the Act violated the equal protection guarantees of the Illinois and United States Constitutions.

¶ 21 Similarly here, respondent is not similarly situated to adult aggravated battery offenders because she is not subject to adult sentences, and thus we need not address whether there is a rational basis for requiring minors to receive at least five years of probation for committing aggravated battery. Respondent has failed to establish that the Act violates the equal protection guarantees of the Illinois and United States constitutions.

¶ 22 C. Modification of Sentence

¶ 23 Respondent next contends, and the State agrees, that respondent's sentence must be modified to terminate when she turns 21 years old, in compliance with the Act. Section 5-715(1) of the Juvenile Court Act provides that a juvenile's probationary period "shall not exceed 5 years or until the minor has attained the age of 21 years, whichever is less." 705 ILCS 405/5-715(1) (West 2012). In this case, the trial court sentenced respondent to five years of probation on November 14, 2013, indicating that her probation would expire on November 14, 2018. However, respondent will turn 21 years old on August 29, 2017. Accordingly, the probationary order should be modified to terminate on August 29, 2017.

¶ 24 D. One-Act, One-Crime

¶ 25 Respondent additionally contends, and the State agrees, that respondent's adjudications of delinquency for aggravated battery with a deadly weapon, and battery, should be vacated pursuant to the one-act, one-crime doctrine. Because the adjudications are based on the same physical act as her adjudication of delinquency for aggravated battery, these adjudications of delinquency should be vacated, and the trial court order should be corrected. See *In re Samantha V.*, 234 Ill. 2d 359, 378-79 (2009) (under one-act, one-crime, respondent should be sentenced to

the most serious offense and the less serious offenses based on the same physical acts should be vacated).

¶ 26

E. Violent Offender Act

¶ 27 Respondent's final arguments on appeal relate to the Murderer and Violent Offender Against Youth Registration Act (Violent Offender Act) (730 ILCS 154/1 *et seq.* (West 2012)). Respondent claims that: (1) the automatic application of the Violent Offender Act to juvenile offenders violates procedural due process because it treats juveniles as identical to adults and prevents judges from making individualized sentencing determinations; (2) the automatic application of the Violent Offender Act to juvenile offenders violates substantive due process because it ignores juveniles' transitory qualities and amenability to rehabilitation, hinders rehabilitative efforts, and exposes juveniles' offenses to the public without a determination that they are actually a danger to the public; (3) the Violent Offender Act violates juveniles' constitutional right to equal protection where it treats juvenile violent offenders significantly more harshly than juvenile sex offenders, and (4) the application of the Violent Offender Act to juvenile offenders is an unreasonable invasion of their constitutional right to privacy. While these constitutional arguments were not raised in the trial court, the constitutionality of a statute may be raised for the first time on appeal (*In re J.W.*, 204 Ill. 2d 50, 61 (2003)), and thus we will consider the issues.

¶ 28 The Violent Offender Act defines a "violent offender against youth" as a person who is adjudicated a juvenile delinquent as the result of committing or attempting to commit an act which, if committed by an adult, would constitute any of the offenses enumerated in section 5(b) or (c-5). 730 ILCS 154/5(a)(2) (West 2012). Subsection 5(b) defines a "violent offense against youth" to include a variety of offenses when the victim is under the age of 18, including

aggravated battery. 730 ILCS 154/5(b)(4.4) (West 2012). The Violent Offender Act requires initial registration within five days after entry of the sentencing order based on the juvenile's adjudication (730 ILCS 154/10(c)(2) (West 2012)), and further provides that, within 10 days of attaining the age of 17, the offender must register as an adult (730 ILCS 154/5(a), 10(a) (West 2012)).

¶ 29 We first address respondent's argument that the Violent Offender Act violates procedural due process as applied to respondent. A procedural due process claim challenges the constitutionality of specific procedures used to deny a person's life, liberty or property. *People v. Cardona*, 2013 IL 114076, ¶ 15. The fundamental requirements of due process are notice of the proceeding and an opportunity to present any objections. *Id.* Respondent contends that the Violent Offender Act is unconstitutional because it subjects all juvenile offenders adjudicated delinquent of specified offenses to register, "with no opportunity for a hearing or individualized determination as to whether the public must be protected from these individuals."

¶ 30 This issue was recently addressed by our supreme court in the case of *In re M.A.*, 2015 IL 118049. In that case, the court noted that the Violent Offender Act requires juvenile offenders to register based upon the fact that the offender was adjudicated delinquent or convicted of an offense included within the definition of a violent offender against youth, not the dangerousness of the offender. *M.A.*, 2015 IL 118049, ¶ 47. The court held that the only material fact is the offender's conviction, and that because the current dangerousness is not relevant or material to the duty to register under the Violent Offender Act, respondent does not have a due process right to a hearing to establish a fact that is not relevant or material under Illinois law. *M.A.*, 2015 IL 118049, ¶ 48. The Act requires registration solely based upon the fact of conviction or adjudication, a fact that respondent had a procedurally safeguarded opportunity to contest during

her juvenile adjudication proceedings. *Id.* Accordingly, respondent received all the process to which she was due when she was adjudicated delinquent of aggravated battery, and her adjudication was sufficient to require her to register. The Violent Offender Act, therefore, does not violate procedural due process as applied to respondent. "Because the Violent Offender Act does not violate procedural due process as applied to [respondent], it follows that the Act also is not facially unconstitutional." *M.A.*, 2015 IL 118049, ¶49; *People v. Davis*, 2014 IL 115595, ¶25) (a facial challenge to a statute must fail if any situation exists where the statute could be validly applied).

¶ 31 Respondent also contends that the Violent Offender Act violates substantive due process because it "ignores juveniles' transitory qualities and amenability to rehabilitation, hinders rehabilitative efforts, and exposes juveniles' offenses to the public without any determination that they are actually a danger to the public." Our supreme court also addressed this issue in *M.A.*, stating:

"The purpose of the Violent Offender Act is to protect the public from violent offenders against youth. Requiring registration of individuals convicted or adjudicated of an offense constituting a violent offense against youth is a reasonable method of accomplishing the Act's objective to protect the public. To that end, the legislature has deemed it appropriate to impose a 10-year registration requirement on most violent offenders against youth. However, with regard to juvenile offenders, the legislature deemed it appropriate to limit those who have access to a juvenile violent offender's information contained on the registry until the juvenile turns 17 years old. Limiting access to a juvenile offender's information until the juvenile offender is 17 years old is a reasonable means of

accomplishing the purpose the legislature sought to accomplish in acting the statute – protecting the public from violent offenders against youth – while maintain the Juvenile Court Act's statutory confidentiality provisions (see 705 ILCS 405/1-7, 1-8 (West 2012))."

¶ 32 As in *M.A.*, respondent here was charged with aggravated battery, which is a Class 3 felony when committed by an adult. See 720 ILCS 5/12-3.05(h) (West 2012). Accordingly, we are compelled to follow our supreme's court finding that "[g]iven that the charges for which [respondent] is required to register would be felonies if [respondent] committed those acts as an adult *** there is a rational relationship between [respondent's] registration and the protection of the public." *M.A.*, 2015 IL 118049, ¶ 60. "Consequently, we find that the Violent Offender Act does not violate [respondent's] right to substantive due process as applied. For that reason, the Violent Offender Act also is not facially unconstitutional." *Id.*

¶ 33 Respondent further contends that the Violent Offender Act violates equal protection because it "treats juvenile violent offenders significantly more harshly than juvenile sex offenders." The equal protection clause guarantees that similarly situated individuals will be treated in a similar manner, unless the government can demonstrate an appropriate reason to treat those individuals differently.² *People v. Richardson*, 2015 IL 118255, ¶ 9. A threshold matter in addressing an equal protection claim is determining whether the individual claiming an equal protection violation is similarly situated to the comparison group. *People v. Masterson*, 2011 IL 110072, ¶ 25. When a party bringing an equal protection claim fails to show that he is similarly situated to the comparison group, his equal protection claim fails. *Id.*

² This court applies the same standard under both the Illinois Constitution and the United States Constitution when conducting an equal protection analysis. *Richardson*, 2015 IL 118255, ¶ 9.

¶ 34 This exact issue was again recently decided by our supreme court in *M.A.* The court found that juvenile sex offenders are not similarly situated to juvenile violent offenders. The court noted that the purpose of the Violent Offender Act was to remove nonsexual offenders from the Child Sex Offender Registration Act (730 ILCS 150/1 et seq. (West 1996)), as the legislature concluded that it was a greater stigma to be categorized as a sex offender than a violent offender. *In re M.A.*, 2015 IL 118049, ¶ 32. The court continued:

"The legislature also recognized that the crimes of nonsexual offenders had nothing to do with sexual offenses. In other words, the Violent Offender Act was enacted *because* the legislature determined that violent offenders were not similarly situated to sex offenders. The Registration Act and the Violent Offender Act address qualitatively different types of offenders and qualitatively different types of offenses. Consequently, although both juvenile sexual offenders and juvenile violent offenders are required to register under the applicable statutes, the statutes address separate groups of offenders in a manner unique to each group."

Id.

¶ 35 Because our supreme court found that an equal protection argument fails in this case because violent offenders are not similarly situated to sex offenders, we are likewise compelled to find the same.

¶ 36 Respondent's final argument is that the Violent Offender Act violates her right to privacy because it makes otherwise confidential records about the juvenile's offense widely available to the general public. We disagree. As our supreme court has stated, "[w]hen a minor, like respondent here, is found guilty of committing a felony offense and is made a ward of the court ***, her identity is a matter of state interest and, as a result, she can no longer have the same

expectation of privacy enjoyed by ordinary, law-abiding citizens." *In re Lakisha M.*, 227 Ill. 2d 259, 271 (2008); see also *In re Jonathon C.B.*, 2011 IL 107750, ¶ 89. Accordingly, respondent's argument regarding her right to privacy must fail.

¶ 37

III. CONCLUSION

¶ 38 For the foregoing reasons, we affirm the trial court's adjudication of delinquency against respondent for aggravated battery, but vacate the counts of aggravated battery and battery, as they violate the one-act, one-crime rule. Additionally, we modify respondent's sentence to terminate upon her 21st birthday, and affirm the trial court's order requiring respondent to register pursuant to the Violent Offender Act.

¶ 39 Affirmed in part; affirmed as modified in part; and vacated in part.