2025 IL App (2d) 250077-U
No. 2-25-0077
Order filed November 10, 2025

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court of Kendall County.
Plaintiff-Appellee,	)	
v.	)	No. 23-DV-69
CASSANDRA M. MACSHANE,	)	Honorable Jody P. Gleason,
Defendant-Appellant.	)	Judge, Presiding.

JUSTICE JORGENSEN delivered the judgment of the court.
Presiding Justice Kennedy and Justice Mullen concurred in the judgment.

ORDER

¶ 1 *Held*: Findings of guilt for domestic battery and violation of an order of protection did not violate one-act, one-crime principles. Affirmed.

¶ 2 After a jury trial, defendant, Cassandra M. Macshane, was found guilty of three misdemeanors: domestic battery (720 ILCS 5/2-3.2(a)(2) (West 2022)), violation of an order of protection (*id.* § 12-3.4), and criminal damage to property (*id.* § 21-1(1)(9)). The court sentenced defendant to one year of conditional discharge for the domestic battery. In addition, it sentenced her to one concurrent year of court supervision for violation of the order of protection. Defendant appeals, arguing that the guilty findings for domestic battery and violation of the order of

protection contravene the one-act, one-crime doctrine. She asks that we vacate her adjudication for violating an order of protection. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 In January 2023, defendant's husband, Brian Macshane, obtained an order of protection against defendant prohibiting her from, in part, harassing or physically abusing him.

¶ 5 On May 9, 2023, police responded to 532 Truman Drive in Oswego, where defendant and Brian both lived. Thereafter, the State charged defendant by complaint as follows.

¶ 6 First, the complaint charged domestic battery, alleging that defendant,

> "knowingly made physical contact of an insulting or provoking nature with [Brian], her husband, in which she threw a can of Mountain Dew at him which missed him, but splashed onto his back, and threw a lighter which struck him on the back of his right leg."

¶ 7 Second, the complaint charged violation of an order of protection, alleging that defendant,

> "knowingly committed a violation of Kendall County order of protection #2022 OP 395 in which [defendant] was prohibited from harassment and physical abuse but sat outside her husband [Brian's] bedroom playing loud music, gave him the middle finger, battered him, and damaged property in the home."

¶ 8 Third, the complaint charged criminal damage to property, in that defendant,

> "knowingly damaged marital property owned by herself and [Brian], in that during a domestic incident she threw a metal napkin holder which struck and broke the glass stove door in the kitchen, and also threw a candle at [Brian] which missed him but damaged drywall on the stairway."

¶ 9 At trial, Brian testified to the events as described in the complaint. Brian had used his phone to record defendant playing loud music and giving him the middle finger; in the recording,

he is heard describing the conduct as harassment. Further, he says that the recorded events were occurring after she threw things at him, including soda.

¶ 10 In addition, Oswego police officer Josh Gerry testified that he responded to the home and spoke with both Brian and defendant. He took photographs of a Mountain Dew can and the broken stove. In addition, he used his phone to record a copy of the video Brian had taken during the incident. That video was shown to the jury and admitted into evidence.

¶ 11 At the close of the State's case, outside the jury's presence, defendant moved for a directed verdict. The State argued that, with respect to domestic battery, it had established the Mountain Dew incident, where defendant threw it in Brian's direction and possibly sprayed it onto his back. With respect to violation of the order of protection, it noted Brian's testimony and the video recording, which showed harassment, in clear violation of the order. The court denied defendant's motion. Defendant did not present evidence on her own behalf.

¶ 12 As relevant on appeal, in closing arguments, the State argued that the evidence established battery and, specifically, physical contact of an insulting or provoking nature, given "the contact that we have with him, the direct contact that we have with him is going to be said Mountain Dew can getting thrown at him in his general area *** striking the wall, splatter comes about, hits him in the back. Brian testified to that." Also, it noted, Officer Gerry testified that defendant admitted to throwing the Mountain Dew can in Brian's direction and spraying him in the back. "[T]hat is the insulting or provoking contact."

¶ 13 The State next argued to the jury that the evidence established a violation of the order of protection, which required proof of "harassing contact and physical abuse." Here, it argued, the "contact that she had specifically with sitting on the speaker, waking him up, blasting that music,

that is harassing contact." Further, "playing that speaker, yelling at him, flicking him off, that is definitely harassing contact."

¶ 14 In its rebuttal closing argument, the State reiterated that defendant had admitted to throwing the Mountain Dew can and that the jury could infer she intended to hit Brian. The State urged that "bad aim" does not mean that defendant did not commit domestic battery with insulting and provoking contact. The State continued that the evidence reflected that defendant was mad and had already tried to provoke Brian by blasting music outside of his bedroom and, when he asked her to turn it down, she gave him the middle finger. Then, when she splashed Brian with sticky liquid, that constituted further insulting and provoking conduct.

¶ 15 The rebuttal continued with the State noting that, regarding violation of the order of protection, the order prohibited both harassment and physical abuse. The State argued that the evidence demonstrated multiple violations of the order. Specifically, defendant harassed Brian when she "got the music blaring, and she won't turn it down, and she's sitting there flipping him off when he asked her to please turn it down. She's waking him up." The State continued, "how do we know that there is physical abuse? She's throwing things at him. And what happens? He gets splattered with the drink that she had in her hand. *There's both harassment and physical abuse*." (Emphasis added.) Thus, the State concluded, the evidence reflected that defendant exhibited harassment and physical abuse of Brian, both of which were prohibited by the order of protection.

¶ 16 The court instructed the jury that, to sustain the charge of domestic battery, "insulting or provoking contact, the State must prove *** that the defendant knowingly made physical contact of an insulting or provoking nature" with Brian. Further, it instructed the jury that a person commits violation of an order of protection when "he commits *an act* which was prohibited by a

court in an order of protection" (emphasis added.), and, to sustain that charge, the State must prove "that the defendant made harassing contact *and* physical abuse" (emphasis added.) with Brian.

¶ 17 The jury received separate verdict forms for each charge, but the forms were general and did not associate specific acts with each charge. The jury found defendant guilty of all three charges.

¶ 18 In a motion for judgment notwithstanding the verdict or, alternatively, a new trial, defendant argued that the court erred in denying her motion for directed verdict; the State failed to prove its allegations beyond a reasonable doubt; the State's witnesses were inconsistent and not credible; and, due to the foregoing and other cumulative errors, defendant was denied due process and equal protection of law. The court denied the motion.

¶ 19 On January 31, 2025, at sentencing, the trial court imposed: (1) one year of conditional discharge for the domestic battery; and (2) one year of court supervision for violation of the order of protection and criminal damage to property (concurrent). Defendant appeals.

¶ 20 II. ANALYSIS

¶ 21 Defendant argues on appeal that we must vacate her adjudication for violation of the order of protection because, in light of the domestic battery conviction, it violates one-act, one-crime principles. However, before we address the substance of defendant's appeal, we must consider the State's argument that, where defendant received only supervision for violating the order of protection, there is no final judgment to be appealed. The State notes that the final judgment in a criminal case is the sentence, and, without a sentence, no appeal can be entertained; therefore, it reasons, because defendant's adjudication for violating the order of protection will be dismissed if she successfully completes supervision, no final judgment has been entered. We disagree.

¶ 22 Not only is the State's cited authority distinguishable (see, *e.g.*, *People v. Michel*, 230 Ill. App. 3d 675 (1992) (there could be no appeal of the defendant's conviction for *filing* a fraudulent tax return, where the court had sentenced her only on the conviction for *signing* a fraudulent return)), it blatantly ignores defendant's citation to Illinois Supreme Court Rule 604(b) (eff. Apr. 15, 2024), which expressly allows appeals when a defendant is placed under supervision. Namely, Rule 604(b) provides:

> "A defendant who has been placed under supervision or found guilty and sentenced to probation or conditional discharge [citation omitted], or to periodic imprisonment [citation omitted], may appeal from the judgment and may seek review of the conditions of supervision, or of the finding of guilt or the conditions of the sentence, or both. He or she may also appeal from an order modifying the conditions of or revoking such an order or sentence." *Id.*

Indeed, our supreme court has noted that "[a]dult supervision orders are appealable not because they are final judgments but because of [Rule 604(b)]." *In re Michael D.*, 2015 IL 119178, ¶ 17. Accordingly, we reject the State's argument that we should dismiss this appeal.

¶ 23 Turning to the substance of defendant's arguments, she contends that the charged acts occurred on the same day, the jury instructions and verdict forms were general and did not specify which acts accompanied each charge, and the State argued in rebuttal closing argument that the same acts, *i.e.*, splashing Mountain Dew, playing loud music, and giving the middle finger, constituted both domestic battery and violation of the order of protection. As a result, defendant argues, the jury was not required to distinguish between the acts supporting domestic battery and violation of the order of protection, and it could have convicted her of both offenses based on the same underlying conduct. She notes that, even if there was evidence of separate instances, it is

impossible to ascertain whether the jury found one or multiple acts and, in turn, whether it found her guilty of both crimes based upon the same physical act. Defendant acknowledges that she did not raise this argument below, requests review under the plain-error doctrine, and she asks this court to vacate the judgment on the least serious offense (which, she contends, is violation of the order of protection) pursuant to one-act, one-crime principles. For the following reasons, we disagree.

¶ 24 The plain-error doctrine "bypasses normal forfeiture principles and allows a reviewing court to consider unpreserved error when either (1) the evidence is close, regardless of the seriousness of the error, or (2) the error is serious, regardless of the closeness of the evidence." *People v. Herron*, 215 Ill. 2d 167, 186-87 (2005). Specifically, here, "an alleged one-act, one-crime violation and the potential for a surplus conviction and sentence affects the integrity of the judicial process, thus satisfying the second prong of the plain error rule." *People v. Harvey*, 211 Ill. 2d 368, 389 (2004). However, to find plain error, we must first determine whether error occurred. *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007). We review *de novo* whether a conviction violates one-act, one-crime principles. See *People v. Strawbridge*, 404 Ill. App. 3d 460, 462 (2010).

¶ 25 In general, one-act, one-crime violations occur when a defendant is convicted of more than one offense for the same act. Specifically, our supreme court has explained,

> "[p]rejudice results to the defendant only in those instances where more than one offense is carved from the same physical act. Prejudice, with regard to multiple acts, exists only when the defendant is convicted of more than one offense, some of which are, by definition, lesser included offenses. *Multiple convictions and concurrent sentences should be permitted in all other cases where a defendant has committed several acts, despite the*

> *interrelationship of those acts*. 'Act,' when used in this sense, is intended to mean any overt or outward manifestation which will support a different offense. We hold, therefore, that when more than one offense arises from a series of incidental or closely related acts and the offenses are not, by definition, lesser included offenses, convictions with concurrent sentences can be entered." (Emphasis added.) *People v. King*, 66 Ill. 2d 551, 566 (1977).

See also *People v. Rodriguez*, 169 Ill. 2d 183, 189 (1996) (reiterating that multiple convictions are proper where the defendant committed multiple acts, despite the interrelationship of those acts).

¶ 26 Here, the complaint charged domestic battery based upon defendant: (1) throwing a can of Mountain Dew that splashed onto Brian's back; and (2) throwing a lighter that struck Brian on the back of his right leg. The complaint charged defendant with violating an order of protection that prohibited "harassment and physical abuse" when she: (1) sat outside Brian's bedroom playing loud music; (2) gave him the middle finger; (3) "battered him"; and (4) damaged property in the home. Defendant argues that the State alleged that the same physical act of battery also violated the order of protection, as it embedded "battered him" within the complaint for violation of order of protection and expressly argued in closing argument that the Mountain Dew incident constituted physical abuse in violation of the order. As such, she contends, it is impossible to ascertain whether the jury found her guilty of both crimes based upon the same physical act. We disagree.

¶ 27 When viewed in its entirety, the record reflects that the domestic battery and order of protection violation arose from separate acts, which were distinguished in the complaint, at trial, and during closing arguments. The jury instructions and closing arguments explained that the battery conviction required physical contact of an insulting or provoking nature, and the State argued the Mountain Dew incident reflected domestic battery as charged. The jury instructions

and closing arguments for violating the order of protection explained that the charge required "an act" that was prohibited by a court in an order of protection and, here, that included harassment and physical abuse. Critically, with respect to the violation of an order of protection, the State consistently focused on the alleged harassment, premised on defendant's playing loud music and giving Brian the middle finger. In addition to testimony on those points, the jury was shown video evidence depicting *those specific acts* of harassment. Although in rebuttal closing argument the State mentioned that the Mountain Dew incident constituted physical abuse prohibited by the order, the context reflects that the State was pointing out that, in addition to violating the order through multiple incidents of harassment, there was *also* physical abuse. Viewing the record as a whole, it is not reasonable to conclude that the jury found defendant guilty of violating the order based *solely* on the Mountain Dew incident, to the exclusion of the video evidence and all testimony about the harassment.

¶ 28 This case differs from those upon which defendant relies. For example, in *Strawbridge*, confusion and violation of one-act, one-crime principles occurred where multiple charges alleged that the defendant "placed his penis in the vagina of" the victim, with only the dates differing and some dates overlapping. *Strawbridge*, 404 Ill. App. 3d at 462-63. No other conduct or act was alleged to form the basis of the charges. Although the State argued that there was adequate evidence to support multiple convictions, the court could not tell which act of "plac[ing] his penis in the vagina" of the victim formed the basis of the jury's verdict. *Id.* Similarly, in *People v. Crespo*, 203 Ill. 2d 335, 342-43 (2001), the victim was stabbed three times, but the State did not differentiate which stab wound was associated with which charge. In *In re Samantha V.*, 234 Ill. 2d 359, 377 (2009), both charges alleged that the defendant "struck" the victim multiple times, without differentiation. Likewise, in *People v. May*, 2021 IL App (4th) 190893, ¶ 4, the defendant

was charged with multiple crimes all stemming from one act of driving a motor vehicle on a certain date. In *People v. Williams*, 2017 IL App (3d) 140841, ¶ 3, the defendant was convicted of two counts of aggravated battery, but both from the act of striking the victim with a bat. Finally, in *People v. James*, 362 Ill. App. 3d 250, 252 (2005), both charges against the defendant alleged that he stabbed the victim multiple times with a knife. Thus, in all of the aforementioned cases, only one specific act was alleged to support multiple charges and, thus, the same precise occurrence of the act could have formed the basis of all convictions.

¶ 29 Here, there is no similar uncertainty whether the jury's guilty verdicts were "carved from the same physical act." See *King*, 66 Ill. 2d at 566. Although defendant contends that "*Crespo* and *Samantha V.* make clear that the dispositive question is how the State charged, instructed, and argued the case," this argument does not help her, as the complaint here did not charge defendant with both battery and violating the order based *solely* on the Mountain Dew incident. Further, the instructions explained that physical contact of an insulting or provoking nature was required for battery, while violation of the order of protection required "an act" prohibited by the order. Although only "an act" was required, the jury was further instructed that, here, to sustain the charge, it needed to find both "physical abuse *and harassment*." As for argument, defendant contends that the State in closing explicitly told the jury that it could find defendant guilty of domestic battery and violating the order based upon the single act of throwing and splashing Mountain Dew on Brian. We disagree. Again, the State repeatedly argued the harassment constituted conduct other than the soda splashing. In context, the State's comment in rebuttal argument, consistent with the complaint, argued and emphasized evidence reflecting multiple acts *apart* from the Mountain Dew incident to support violation of the order of protection, primarily, harassment in the form of loud music and offensive hand gestures. Thus, this is not a situation

where we cannot tell whether the jury found defendant guilty of violating the order of protection *solely* because she "battered" him when she splashed him with Mountain Dew. Rather, considering the record as a whole, the charges, evidence, argument, and instructions clearly explained to the jury that defendant committed multiple interrelated acts. Simply put, we do not agree that uncertainty exists. Thus, multiple guilty verdicts (with concurrent sentences) may stand. *King*, 66 Ill. 2d at 566; *Rodriguez*, 169 Ill. 2d at 189. We note that defendant does not contend that violation of an order of protection is a lesser-included offense of battery. See *King*, 66 Ill. 2d at 566. Thus, we conclude there was no error, and, thus, no plain error.

¶ 30 III. CONCLUSION

¶ 31 For the reasons stated, we affirm the judgment of the circuit court of Kendall County.

¶ 32 Affirmed.