ONE ACT, MANY CRIMES? ANALYZING THE COURT'S DECISION IN *PEOPLE V. ALMOND*, 2015 IL 113817, 32 N.E.3D 535

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I. INTRODUCTION

Imagine committing one act, such as speeding on a highway, but being charged with two different crimes: speeding at mile marker one and speeding at mile marker two. Should it be lawful to be charged with two crimes in that situation? What if you are involved in a physical fight and you strike the other person three times: should you be charged with three different crimes, one for each strike? Is it good public policy to break crimes into pieces in this manner? Courts have struggled over the years in determining the unit of prosecution in these types of situations and have authorized four different approaches to handle such cases.[1]

This Note discusses the approach Illinois has adopted, which is a mixture of the act approach and the legislative intent approach. In Illinois, there is the one-act, one-crime rule, which, as the name states, only allows a defendant to be convicted of one offense, based on a single act.[2] Ideally, one act should only equal one crime. With respect to this rule, the Illinois Supreme Court has defined an act as "any overt or outward manifestation which will support a separate conviction."[3]

In *People v. Almond*, the defendant, Antonio Almond, was convicted of multiple firearm offenses under the Unlawful Use of Weapons by a Felon Act (UUWF), arising from his possession of one loaded handgun while he was a convicted felon.[4] The UUWF, in relevant part, states:

> It is unlawful for a person to knowingly possess on or about his person or on his land or in his abode or fixed place of business any weapon

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1. Jeffrey M. Chemerinsky, Note, *Counting Offenses*, 58 DUKE L.J. 709, 711 (2009).
2. People v. Artis, 902 N.E.2d 677, 680 (Ill. 2009).
3. *Id.* at 681 (quoting People v. King, 363 N.E.2d 838, 844 (Ill. 1977)).
4. People v. Almond, 2015 IL 113817, ¶1, 32 N.E.3d 535, 537.

> prohibited under *Section 24-1* of this Act or any firearm or any firearm ammunition if the person has been convicted of a felony under the laws of this State or any other jurisdiction.[5]

The statute, as amended, further states: "[t]he possession of each firearm or firearm ammunition in violation of this Section constitutes a single and separate violation."[6]

On appeal, the Illinois Supreme Court grappled with two main issues: (1) whether it was a violation of the UUWF to base multiple convictions on the possession of a single loaded firearm; and (2) if not, did the one-act, one-crime rule apply?[7] The court began by looking to the plain meaning of the words in the UUWF, and determined the statute did not prohibit multiple charges for the possession of a single loaded firearm.[8] The court then looked to precedent, holding further that since possession of the gun and possession of the ammunition inside the gun were two different crimes under the UUWF and the armed habitual criminal statute, the one-act, one-crime rule did not apply.[9]

The *Almond* majority's interpretation of when to apply the one-act, one-crime rule is contrary to statutory interpretation and opened the door for a rule that has no beginning or an end. This Note examines the Illinois Supreme Court's decision in *People v. Almond* in light of the court's interpretation of when to apply the one-act, one-crime rule.

This Note argues the majority was incorrect to not apply the one-act, one-crime rule when the defendant was only charged with one crime under the UUWF.[10] Section II provides a historical background for the one-act, one-crime rule in Illinois. Section III provides the factual and legal issues presented in *People v. Almond*, as well as the court's holding and reasoning. Finally, Section IV argues that the court incorrectly interpreted the application of the one-act, one-crime rule because there was one significant difference between *Almond* and the relied upon precedent. Section IV also explains how the court's erroneous interpretation and application of the one-act, one-crime rule can and will negatively impact society.

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5. 720 ILL. COMP. STAT. 5/24-1.1(a) (2012) (emphasis added).
6. *Id.* at 5/24-1.1(e).
7. *Almond*, 2015 IL 113817, ¶ 30, 32 N.E.3d at 542.
8. *Id.* at ¶ 36, 32 N.E.3d at 542.
9. *Id.* at ¶ 48, 32 N.E.3d at 544.
10. *Id.* at ¶ 50, 32 N.E.3d at 545. According to the statute's plain text, a person has to be charged with both possession of the gun and possession of the ammunition under the UUWF. *See* 720 ILL. COMP. STAT. 5/24-1.1(a) (2012). In *Almond*, the defendant was only charged with the ammunition in the gun under the UUWF. *Almond*, 2015 IL 113817, ¶ 35, 32 N.E.3d at 542.

II. BACKGROUND

The Illinois Supreme Court's journey through the one-act, one-crime rule has been a long one. The court has constantly redefined and changed the circumstances of when this rule applies. The court first interpreted the one-act, one-crime rule in 1977, in *People v. King*.[11] In *King*, the defendant was charged with two counts of rape and one count of burglary, and convicted of all counts.[12] The defendant appealed, arguing his conviction for burglary must be reversed because the burglary charge was not independently motivated by his intent to commit rape.[13] Thus, he argued, only his conviction for the most serious offense can stand.[14] The court looked to the plain language in the statute and affirmed the convictions.[15]

The *King* court reasoned 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."[16] The court further held prejudice results to the defendant only in instances where more than one offense is carved from the same physical act.[17] Affirming the defendant's convictions, the court ultimately ruled that multiple convictions and concurrent sentences are permitted in all other cases where the defendant has committed several acts.[18] According to *King*: (1) multiple convictions are appropriate where they arise from multiple acts despite the existence of any interrelationship between those acts; (2) multiple convictions arising from the same physical act are prohibited; and (3) where, by definition, an offense is a lesser-included offense of another offense, multiple convictions are not permitted even if they arise from multiple acts during the same occurrence or transaction.[19]

A year later, the court was again faced with a one-act, one-crime issue in *People v. Manning*, where the defendant argued the one-act, one-crime rule applied to his case.[20] At the trial court, the defendant was convicted of one count of burglary and two counts of possession of a controlled substance.[21] The appellate court affirmed the conviction for unlawful

11. *See* People v. King, 363 N.E.2d 838, 839 (Ill. 1977).
12. *Id.*
13. *Id.* at 841.
14. *Id.*
15. *Id.* at 845.
16. *Id.*
17. *Id.* at 844.
18. *Id.* at 845.
19. *See id.* at 844–45.
20. *See* People v. Manning, 374 N.E.2d 200, 201 (Ill. 1978).
21. *Id*. at 200.

possession of amphetamine, but vacated the convictions for possession of barbituric acid and burglary.[22] The State appealed, arguing that the two acts were separate and that burglary is not a lesser-included offense, which should have been vacated.[23] The Illinois Supreme Court again looked to the plain meaning of the statute and held there was only one unlawful entry.[24] The court noted that the defendant might have intended to commit several crimes, if the opportunity presented itself, but this alone did not justify a conviction of, and sentence for, three separate crimes.[25] The court stated, in contrast, simultaneous possession of different types of drugs could not support multiple convictions, absent an express statutory provision that so mandates.[26] Thus, the court upheld the burglary conviction and possession of a controlled substance, but only to the extent that he was charged once.[27]

It was not until 1999 that the court faced another one-act, one-crime issue. In *People v. Crespo*, defendant, Hector Crespo, was charged with two counts of first degree murder, one count of attempted first degree murder, two counts of aggravated battery, and one count of armed violence.[28] A jury convicted him on all counts.[29] He appealed the aggravated battery charge, arguing it should be vacated because there was only one physical act.[30] Alternatively, he argued the aggravated battery charge should be vacated because the trial court merged the two counts, but the mittimus[31] showed them as two different convictions.[32] The appellate court rejected Crespo's argument, but it amended the mittimus, making the two aggravated battery charges one conviction.[33]

The Illinois Supreme Court reversed the defendant's remaining aggravated battery conviction.[34] Charging the defendant with armed violence and aggravated battery "[did] not differentiate between the separate . . . wounds" to the victim.[35] Instead, the court noted that the defendant was charged "with the same conduct under different theories of

22. *Id.*
23. *Id.* at 201.
24. *Id.* at 202.
25. *Id.*
26. *Id.*
27. *Id.*
28. People v. Crespo, 788 N.E.2d 1117, 1119 (Ill. 2001).
29. *Id.* at 1120.
30. *Id.*
31. *Mittimus*, BLACK'S LAW DICTIONARY (9th ed. 2009) ("a writ[ing] used to send a record or its tenor from one court to another").
32. *Crespo*, 788 N.E.2d at 1118.
33. *Id.* at 1120.
34. *Id.* at 1123.
35. *Id.* at 1121.

criminal culpability."[36] Looking at the indictment and the State's arguments, the court determined that the State treated the defendant's conduct as one act.[37] Thus, the court held that, to convict a defendant of multiple crimes, the indictment must indicate the State's intent to treat the defendant's conduct as multiple acts.[38]

It 2004, the legislature amended the UUWF statute in response to the Illinois Supreme Court's decision in *People v. Carter*.[39] In *Carter*, the defendant was charged under the UUWF with four counts of unlawful possession of weapons by a felon.[40] The defendant was charged based on his "simultaneous possession of two handguns and clips of ammunition for those two guns."[41] He was found guilty of all four counts.[42] The defendant appealed, arguing his multiple convictions violated the one-act, one crime doctrine.[43] He argued that because "all four of his convictions for unlawful possession of weapons by a felon were based on a single, simultaneous act of possession, three of the convictions must be vacated."[44] The court was tasked with determining whether multiple convictions could be entered for unlawful possession of weapons based on simultaneous possession of two guns and ammunition for those guns.[45]

The *Carter* court found the statute neither prohibited nor permitted the State to bring separate charges for the simultaneous possession of firearms and firearm ammunition, because the term "any" used in the statute could mean either singular or plural.[46] The court then reasoned that the term "any" as used in the statute was ambiguous, and the rule of lenity was to apply.[47] The rule of lenity requires the court to construe the statute in favor of the defendant.[48] Thus, the statute as written could only support one conviction.[49] Lastly, in *Carter*, the court held where a statute is ambiguous, in the absence of a statutory provision to the contrary, simultaneous

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36. *Id.*
37. *Id.* at 1122.
38. *Id.* at 1123.
39. *See generally* 720 ILL. COMP. STAT. 5/24-1.1(a) (2012).
40. People v. Carter, 821 N.E.2d 233, 235 (Ill. 2004).
41. *Id.*
42. *Id.*
43. *Id.*
44. *Id.* at 236.
45. *Id.*
46. *Id.* at 237.
47. *Id.* at 238 (citing Bell v. United States, 349 U.S. 81, 83 (1955)).
48. *See id.* The rule of lenity is a judicial doctrine requiring courts to construe ambiguous criminal statutes in favor of the more lenient punishment to the defendant. *See* Phillip M. Spector, *The Sentencing Rule of Lenity*, 33 U. TOL. L. REV. 511, 512 (2002).
49. *Carter*, 821 N.E. 2d at 240. The court did not conduct a one-act, one-crime analysis because the "defendant's contention that multiple convictions for simultaneous possession violated the one-act, one-crime rule was moot." *Id.*

possession could not support multiple convictions.[50] After *Carter*, the legislature amended the UUWF statute by adding section (e), which states: "possession of each firearm or firearm ammunition in violation of this Section constitutes a single and separate violation."[51]

Following *Carter*, in 2011, the Illinois Supreme Court in *People v. Miller* created a two-step analysis for one-act, one-crime situations, prohibiting conviction of more than one offense, some of which are lesser-included offenses.[52] The two step process is as follows: "first, the court must determine whether the defendant's conduct involved multiple acts or a single act"; "second, if the conduct involved multiple acts, the court must determine whether any of the offenses are lesser-included offenses."[53]

Only one year passed before the court had to grapple with the application of the one-act, one crime rule again. In *People v. Anthony*, the defendant was convicted, under the UUWF, of two counts of unlawful possession of a weapon by a felon and sentenced to concurrent terms of six years imprisonment.[54] The defendant appealed and argued one of his convictions should be vacated because it was unauthorized under the statute.[55] The court looked to precedent and concluded that the plain and unambiguous language of the amended UUWF statute allowed for multiple charges and convictions based upon simultaneous possession of a firearm and firearm ammunition.[56]

One of the most recent decisions involving application of the one-act, one-crime rule was in 2014, in *People v. Howard*.[57] Defendant, Antwan Howard, was found "guilty of possession of a controlled substance under the Illinois Controlled Substance Act (Act), and of four counts of unlawful use of a weapon by a felon [] under the Criminal Code of 1961 (Code)."[58] Defendant appealed, arguing two of his UUWF convictions must be vacated because they violate the one-act, one-crime doctrine.[59] He made an additional argument that one of two must be vacated because "the Code does not allow for multiple convictions for a single act of possessing a gun" and possession of ammunition inside the gun.[60] The court again looked to

50. *Id.* at 234.
51. H.B. 132, 94th Gen. Assemb. (Ill. 2005).
52. People v. Miller, 938 N.E.2d 498, 501 (Ill. 2010).
53. *Id.*
54. People v. Anthony, 2011 IL. App. (1st) 091528-B, ¶ 1, 960 N.E.2d 1124, 1125.
55. *Id.*
56. *Id.* at ¶ 9 (citing 720 ILL. COMP. STAT. 5/24-1.1 (a) (2012)).
57. *See* People v. Howard, 2014 IL. App. (1st) 122958, ¶ 1, 8 N.E.3d 450, 451.
58. *Id.* (citations omitted).
59. *Id.*
60. *Id.* The defendant also argued the court exposed him to double jeopardy by finding him not guilty on the two counts under the UUWF, but then rescinding his acquittal of those charges during sentencing and entering the finding of guilty. *Id.*

the plain language of the Code, and found the statute renders the possession of each gun and the ammunition inside of each one to be single and separate violations.[61]

The defendant argued that the statute was inconsistent and should be held invalid.[62] Similar to *People v. Anthony*, the appellate court rejected the argument that the statute permits "prosecution for possession of a weapon and a separate prosecution for possession of ammunition but not a weapon loaded with ammunition."[63] The court ruled that the plain wording of the statute does not allow this exception, and rejected the defendant's argument that the UUWF's legislative history allows for this interpretation.[64] The court relied heavily on its decision in *People v. Anthony* to hold that the amended statute expressly authorized multiple convictions for a defendant possessing a gun containing ammunition.[65]

In 2009, there was one attempt by the State to abolish the one-act, one-crime doctrine.[66] In *People v. Artis*, the defendant pled guilty to several counts of sexual assault that occurred during a residential burglary.[67] He later argued that one of his sexual assault convictions should be vacated, because it violated the one-act, one-crime doctrine.[68] The State argued the one-act, one-crime doctrine should be abolished because the rationale for the doctrine, parole,[69] no longer existed in society.[70]

To determine whether to abolish the doctrine the court began by looking to precedent.[71] In *People v. Schlenger*, the court held that the rationale and motivation behind the one-act, one-crime doctrine was a desire to "prevent prisoners from being prejudiced, in their parole opportunities, by multiple convictions and sentences carved out from a single physical act."[72] The court then expressed that "multiple convictions and consecutive sentences have been permitted against claims of double

61. *Id.* at ¶ 17, 8 N.E.3d at 455.
62. *See id.*
63. *Id*.
64. *Id.* at ¶¶ 17–18, 8 N.E.3d at 455.
65. *Id.* at ¶ 18, 8 N.E.3d at 455; *see* People v. Anthony, 2011 IL App. (1st) 091528-B, ¶ 17, 960 N.E. 2d 1124, 1130.
66. *See* People v. Artis, 902 N.E.2d 677, 679 (Ill. 2009).
67. *Id*.
68. *Id*. at 680.
69. *Id*. at 681. The General Assembly abolished parole for all felons sentenced after February 1, 1978, and replaced it with mandatory supervised release, the length of which is determined according to the class of the offense or by the specific offense itself. *Id.* at 682.
70. *Id.* at 680.
71. *Id.*
72. *Artis*, 902 N.E.2d at 682–83 (citing People v. Schlenger, 147 N.E.2d 316 (Ill. 1958)).

jeopardy where offenses are based on a single act but require proof of different facts."[73]

Next, the court held that "although the genesis of the one-act, one-crime doctrine arose from concerns about adverse effects on parole [], the fact that parole ha[d] been abolished [did] not inevitably lead to the conclusion that the doctrine should be abandoned."[74] The court specifically held a violation of the doctrine qualified for review under the plain-error rule.[75] Thus, the court reasoned that the doctrine should not, and could not be abolished.[76] The State also presented five alternative arguments as to why the doctrine should be abolished; the court, however, found it unnecessary to address these other arguments.[77]

III. EXPOSITION

In 2015, the court once again encountered a defendant urging it to apply the one-act, one-crime doctrine to his case.[78] In *Almond*, the defendant was indicted on seven different charges in his initial trial,[79] all stemming from his status as a felon in possession of a loaded gun.[80] He appealed to the Illinois Supreme Court, arguing a violation of his Fourth Amendment rights, and in the alternative, that the one-act, one-crime doctrine should apply and that his lesser conviction should be vacated.[81]

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73. *Id.* at 683 (citing People v. King, 363 N.E.2d 838, 844 (Ill. 1977)).
74. *Id.* at 683.
75. *Id.* The second prong of the plain-error rule is invoked only in those exceptional circumstances where, despite the absence of objection, application of the rule is necessary to preserve the integrity and reputation of the judicial process. People v. Harvey, 813 N.E.2d 181, 186 (Ill. 2004).
76. *Artis*, 902 N.E.2d at 691; *see* People v. Piatkowski, 870 N.E.2d 403, 410 (Ill. 2007) (discussing the courts policy and rationale behind maintaining the doctrine).
77. *Artis*, 902 N.E.2d at 685.

> The State also argu[ed] that (1) the doctrine is not constitutionally mandated; (2) it interferes with trial court's discretion; (3) applicable statutes authorize multiple concurrent convictions and sentences arising out of the same conduct when that conduct establishes more than one offense; (4) the doctrine produces confusing results and is not amendable to consistent application; and (5) it consumes resources that are better spent elsewhere in the criminal justice system.

Id. at 682.
78. *See* People v. Almond, 2015 IL 113817, ¶ 1, 32 N.E.3d 535, 537.
79. *Id.* at ¶ 9, 32 N.E.3d at 538.
80. *Id.* Only two, Count I (armed habitual criminal based on possession of a firearm) and Count III (unlawful use of a weapon by a felon based on possession of ammunition) were at issue in his initial appeal. *Id.* at ¶ 75, 32 N.E.3d at 550 (Garman, J., dissenting). At the appellate court, the State conceded that the remaining charges and convictions, all based on defendant's possession of a firearm, should be vacated. *Id.* at ¶¶ 73–76, 32 N.E.3d at 550. Consequently, the parties' respective arguments in this case are limited to those two charges. *See id.*
81. *Id.* at ¶ 1, 32 N.E.3d at 537 (majority opinion).

The Illinois Supreme Court, like the appellate court, rejected his Fourth Amendment argument.[82]

A. Facts

On October 30, 2008, two officers in a marked squad car were informed, by their dispatcher, that an unknown person reported seeing several men selling drugs around 330 E. Pershing Road, in Chicago, Illinois.[83] The officers went there and noticed five men outside of the store.[84] The officers did not observe any of the men commit a violation, nor did they have a description of the person illegally selling narcotics.[85] The officers parked, and two of the men walked away.[86] The defendant and two other men went inside the store.[87] The two officers entered the store.[88] No one followed the two men who walked away from the store.[89]

The officers, without an arrest or search warrant, decided to conduct a field interview.[90] While conducting the field interview, one officer asked the defendant what he was doing in the store and whether he was in possession of any narcotics or weapons.[91] The officer claimed that the defendant, a convicted felon, then told him "I just got to let you know I got a gun on me[,]" which led the officer to frisk the defendant.[92] Subsequently, the officer found a loaded gun, and the officer arrested the defendant.[93] The defendant was charged with multiple firearm offenses, including one under the UUWF, relating to possession of a firearm by a felon.[94]

On December 1, 2008, because he was a felon in possession of a loaded gun, the defendant was indicted of seven crimes.[95] He asked the

82. *Id.* at ¶ 65, 32 N.E.3d at 548. Initially, the defendant argued a violation of his fourth amendment right, alleging the officer conducted an unreasonable search and seizure during a *Terry* stop. *Id.* The Illinois Supreme Court rejected this argument and found, based on the description of events, that it was a consensual encounter. *Id.*
83. *Id.* at ¶¶ 6–12, 32 N.E.3d at 537–38.
84. *Id.* at ¶¶ 11–12, 32 N.E.3d at 538.
85. *See id.* at ¶ 13, 32 N.E.3d at 538.
86. *Id.* at ¶ 11, 32 N.E.3d at 538.
87. *Id.*
88. *Id.*
89. *See id.*
90. *Id.* at ¶ 7, 32 N.E.3d at 537.
91. *Id.* at ¶ 8, 32 N.E.3d at 538.
92. *Id.* at ¶ 8, 32 N.E.3d at 538.
93. *Id.* Defendant alleged he did not tell the officer, prior to the search, that he had a gun, and he testified that he would not have admitted to having a gun because he knew "it's wrong to have a gun." *Id.*
94. *Id.* at ¶ 6, 32 N.E.3d at 537.
95. People v. Almond, 2011 IL App. (1st) 093587-U, ¶ 9.

court for, and was granted, a bench trial.[96] Due to some credibility issues and the State's evidence showing defendant's two felony convictions, the court found the officer's testimony more credible than the defendant's.[97] The defendant was ultimately convicted on all seven counts.[98]

B. Procedural Posture

One month after being found guilty, the defendant asked the court to re-hear the issue.[99] The court denied the motion, and the defendant appealed.[100] The appellate court held defendant could receive only one conviction "based on the same physical act of possessing one loaded firearm."[101] The State appealed to the Illinois Supreme Court.[102] The question on appeal was whether multiple separate convictions for firearm offenses were statutorily authorized under the one-act, one-crime rule.[103]

C. Majority Opinion

The *Almond* court began by analyzing the statutory construction of the UUWF.[104] The court had to "determine whether the UUWF authorizes separate offenses to be charged for the simultaneous possession of a firearm and ammunition" inside that firearm.[105] The court noted that the primary goal when construing a statute is to give effect to the legislature's intent, which is best indicated by the plain and ordinary meaning of the statutory

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> [C]ount 1, [charged him] for being an armed habitual criminal; count 2, for unlawful use of a weapon by a felon, in that he possessed a firearm; count 3, for unlawful use of a weapon by a felon, in that he possessed firearm ammunition; count 4, for aggravated unlawful use of a weapon, in that he carried an uncased, loaded and immediately accessible firearm when he was not on his own land or in his own abode and while a convicted felon; count 5, for aggravated unlawful use of a weapon, in that he carried a firearm when he was not on his own land or in his own abode, without a valid license and while a convicted felon; count 6, for aggravated unlawful use of a weapon, in that he carried an uncased, loaded and immediately accessible firearm, when he was on a public street and while a convicted felon; and count 7, for aggravated unlawful use of a weapon, in that he carried a firearm without a valid license and while a convicted felon.

Id.

96. *Id.* at ¶ 34.
97. *Id.* at ¶¶ 46–49.
98. *Id.* at ¶ 49.
99. *Id.* at ¶ 51.
100. People v. Almond, 2015 IL 113817, ¶ 1, 32 N.E.3d 535, 537.
101. *Id.* at ¶ 2, 32 N.E.3d at 537.
102. *Id.* at ¶ 1, 32 N.E.3d at 537.
103. *Id.*
104. *See id.* at ¶ 30, 32 N.E.3d at 541.
105. *Id.* at ¶ 33, 32 N.E.3d at 542.

language.[106] The court further noted that when construing a statute, "[a] reviewing court may also consider the reason for the law and the problems intended to be remedied" by enacting that law.[107] The court, considering both of these principles, concluded that under the plain meaning of the amended UUWF, the statute not only criminalized "the possession of *any* firearm or *any* firearm ammunition by a felon," it clarifi[ed] that the "possession of *each* firearm or firearm ammunition by a felon constituted a *single* and *separate* violation."[108]

The *Almond* court then looked to the First Circuit Court of Appeals' decision in *People v. Anthony*.[109] There, the court construed the amended version of the UUWF "to authorize separate convictions for the simultaneous possession of a firearm and ammunition in [that] firearm."[110] The court also looked to *People v. Howard*, where the appellate court similarly noted "section 24-1.1(e) was amended in 2005, in response to *Carter*, [] to alleviate an ambiguity in the statute."[111] Thus, the statute did allow for two convictions for possession of the gun and possession of the ammunition inside the gun.

Next, the *Almond* court analyzed the one-act, one-crime doctrine.[112] The Illinois Supreme Court observed that the application of the one-act, one-crime doctrine was a question of law to be reviewed *de novo*.[113] The court, relying on precedent,[114] concluded that "separate convictions do not violate the one-act, one-crime doctrine."[115] The court further noted that the defendant was a previously convicted felon, and it reasoned that although defendant's possession of the gun and ammunition was simultaneous, that alone did not render his conduct a single act.[116] The court, relying on the holding in *King*, reasoned that to the extent defendants acts were interrelated, "[a]s long as there are multiple acts as defined in *King*, their interrelationship does not preclude multiple convictions."[117] Thus, the court

106. *Id.* at ¶ 34, 32 N.E.3d at 542.
107. *See* People v. Perez, 2014 IL 115927, ¶ 9, 18 N.E.3d 41, 44.
108. *Almond*, 2015 IL 113817 at ¶ 36, 32 N.E. 3d at 542.
109. *Id.* at ¶ 40, 32 N.E.3d at 543.
110. *Id.* (citing People v. Anthony, 2011 IL App (1st) 091528, ¶ 9, 960 N.E.2d 1124, 1127–28).
111. *Id.* (quoting People v. Howard, 2014 IL App (1st) 122958, ¶ 18, 8 N.E.3d 450, 455).
112. *Id.* at ¶ 45, 32 N.E.3d at 544.
113. *Id.* at ¶ 47, 32 N.E.3d at 544 (citing People v. Robinson, 902 N.E.2d 622, 627 (Ill. App. Ct. 2008)).
114. *Id.* at ¶ 47, 32 N.E.3d at 544. Multiple convictions and concurrent sentences should be permitted in all cases where a defendant has committed several acts, despite the interrelationship of those acts. *See, e.g.*, People v. King, 363 N.E.2d 838, 844 (Ill. 1977); People v. Crespo, 788 N.E.2d 1117, 1118 (Ill. 2001).
115. *Almond*, 2015 IL 113817 at ¶ 48, 32 N.E. 3d at 544 (citing *King*, 363 N.E.2d at 844).
116. *Id.* at ¶ 49, 32 N.E.3d at 545.
117. *Id.*

ultimately held that defendant's possession of a loaded gun constituted two separate acts: possession of a gun and possession of the ammunition inside the gun.[118]

The *Almond* court found the defendant's argument—that his possession of a loaded gun was one act—unpersuasive because "he was [not] charged with, nor convicted of, possession of a gun with ammunition inside."[119] "Instead, the defendant was charged with, and convicted of, being an armed habitual criminal based on his possession of a firearm" and unlawful use of a weapon by a felon "based on possession of the ammunition inside the gun."[120] Accordingly, the court ruled in favor of the State, concluding that the possession of a firearm and possession of firearm ammunition were two separate acts.[121] As a result, the court decided that the one-act, one-crime rule was not applicable here, because the defendant's possessions constituted two separate acts under the UUWF.[122]

D. Chief Justice Garman's Dissent

Chief Justice Garman, the dissenting judge in *Almond*, began by addressing the issue of "whether the [UUWF] permits multiple convictions for what would otherwise constitute a single act."[123] She agreed with the majority's argument regarding the plain meaning of the statute and reasoned that the plain meaning does allow person to be charged with multiple offenses, if both charges are under the UUWF.[124] However, she disagreed with the majority's other findings.[125] Particularly, when looking to precedent, Justice Garman found one significant fact distinguishing this case from the primary cases cited by the majority: *People v. Anthony* and *People v. Howard*.[126]

Justice Garman noted that the two cases were distinguishable and should not control because both involved defendants being charged with multiple charges under the UUWF statute, and not one charge for habitual criminal and one charge under the UUWF.[127] Here, the defendant was charged with possession of the gun under the armed habitual criminal statute, and possession of the ammunition inside the gun under the

118. *Id.* at ¶ 50, 32 N.E.3d at 545.
119. *Id.* at ¶ 49, 32 N.E.3d at 545.
120. *Id.*
121. *Id.*
122. *Id.* at ¶ 50, 32 N.E.3d at 545.
123. *Id.* at ¶ 72, 32 N.E.3d at 549 (Garman, C.J., dissenting).
124. *Id.* at ¶ 75, 32 N.E.3d at 550.
125. *Id.*
126. *Id.* at ¶ 76, 32 N.E.3d at 550.
127. *Id.*

UUWF.[128] Justice Garman considered this a critical difference that, if noted by the majority, would have changed the outcome of the case.[129]

Chief Justice Garman further noted that when looking to legislative history and to the intent of the drafters, it is clear that "the legislature did not provide for multiple offenses to be carved from the same physical act unless both the offenses were violations of, [and charged under] the UUWF" statute.[130] Justice Garman again noted that the defendant was charged with multiple offenses that were carved out of one single act, and that this could not be what the legislature intended.[131]

After arguing that the UUWF was not implicated in this case, Justice Garman noted that the new question became: whether defendant's convictions violated the one-act, one-crime rule.[132] She argued that "the determinative factor in a one-act, one-crime analysis" is "the nature of the act itself," which must be examined to determine if there is one-act, or multiple acts.[133] For example, in a case where a defendant commits more than one physical act, such as breaking or entering and robbery, it would be proper to charge and convict him of two separate offenses.

She further argued that the nature of the act here, possession of a loaded firearm, was a single act, and could not constitute multiple acts.[134] Possession of a firearm loaded with ammunition is a simultaneous possession, and should only constitute one act.[135] Lastly, she concluded that the majority should have applied the one-act one-crime rule to this case.[136] She reasoned that, since the defendant was not charged with two crimes under the UUWF, and since the one-act, one-crime doctrine should have applied, the majority got it wrong; the defendant's lesser-included offense should have been vacated, and because it was not, the case should be overturned.[137]

IV. ANALYSIS

The majority in *People v. Almond* ignored the plain meaning of the words in the UUWF and failed to apply the one-act, one-crime rule in a case where it was intended to be applied. Part A of this analysis discusses

128. *Id.*
129. *Id.*
130. *Id.*
131. *Id.* at ¶ 77, 32 N.E.3d at 550.
132. *Id.* at ¶ 78, 32 N.E.3d at 551.
133. *Id.* at ¶ 80, 32 N.E.3d at 551.
134. *Id.*
135. *Id.*
136. *Id.* at ¶ 85, 32 N.E.3d at 552.
137. *Id.* at ¶¶ 85–86, 32 N.E.3d at 552.

the court's incorrect interpretation of the UUWF. Part B argues the court should have applied the one-act, one crime rule in *Almond* and provides a step-by-step analysis of what the court should have done. Part C provides some examples on how this erroneous ruling can affect everyone in society and how the majority's interpretation of when to apply this rule is against public policy.

A. The UUWF statute

The UUWF statute states that a felon may not be in possession of a firearm or firearm ammunition.[138] This statute was enacted to prevent and deter felons from possessing guns and other dangerous items and thus, ultimately prevent felons from committing future crimes, while protecting society.[139] The majority's interpretation of this statute does not conform with the plain meaning nor the purpose behind the amended version of the statute. This Part argues that the majority applied inapplicable precedent and concludes by arguing the majority's interpretation allows for a slippery slope.

1. Statutory Construction of the UUWF

Statutory interpretation involves looking to the plain meaning of the text, legislative history (when available), and other extrinsic sources.[140] The first place a court begins when interpreting a statute is with the statute's plain text.[141] The majority incorrectly interpreted the words in the UUWF statute. However, Chief Justice Garman correctly noted in her dissent that the majority failed to consider the plain-meaning of the statute.[142] The statute states: "possession of each firearm or firearm ammunition in violation *of this section*" is a separate crime.[143] The plain meaning of that language means a person has to be charged with both possession of the gun and possession of the ammunition under the UUWF for each act to constitute a separate crime.

The majority failed to consider that the defendant, in *Almond*, was charged with possession of the gun under the habitual criminal statute and with possession of the ammunition inside the gun under the UUWF

138. 720 ILL. COMP. STAT. 5/24-1.1(a) (2012).
139. People v. Johnson, 2015 IL App (1st) 133663, ¶ 27, 44 N.E.3d 486, 494 (citing People v. Davis, 947 N.E.2d 813, 816–17 (Ill. App. 2011)).
140. *Almond*, 2015 IL 113817 at ¶ 34, 32 N.E.3d at 542 (citing People v. Elliot, 2014 IL 115308, ¶ 11, 4 N.E.3d 23, 25).
141. United States v. Am. Trucking Ass'ns, 310 U.S. 534, 543 (1940).
142. *Almond*, 2015 IL 113817 at ¶ 75, 32 N.E.3d at 550 (Garman, C.J., dissenting).
143. 720 ILL. COMP. STAT. 5/24-1.1(a) (2012) (emphasis added).

statute;[144] thus, the amended version of the UUWF was not applicable to him. If the plain meaning of a statute's language is not sufficient and there is still ambiguity as to what the legislature meant, courts will look to other sources of interpretation, such as the statute's legislative history.[145]

Here, the legislative history indicated that the legislature amended the UUWF statute in response to *Carter*.[146] In *Carter*, the defendant was charged with possession of two guns and possession of two clips of ammunition for those guns.[147] Both charges were under the UUWF statute.[148] The court could not determine whether the legislature intended multiple units of prosecution; as a result, it held the statute's language was ambiguous and applied the rule of lenity to construe the statute in the defendant's favor.[149] To add clarity on the appropriate unit of prosecution, the legislature amended the statute to allow for two separate charges—one for the possession of a gun and one for possession of ammunition inside that gun.[150]

The pre-amended version of the statute provided in relevant part:

> (a) It is unlawful for a person to knowingly possess on or about his person or on his land or in his own abode or fixed place of business any weapon prohibited under Section 24-1 of this Act or any firearm or any firearm ammunition if the person has been convicted of a felony under the laws of this State or any other jurisdiction.[151]

The legislative history shows that the legislature amended the UUWF statute in response to *Carter*.[152] The amended version reads in relevant part: "[t]he possession of each firearm or firearm ammunition in violation of this Section constitutes a single and separate violation."[153] The plain wording of the amended statute indicates that separate convictions may be had for the simultaneous possession of a firearm and the ammunition loaded within it.[154] The court has continually interpreted the amended

144. *Almond*, 2015 IL 113817 at ¶ 25, 32 N.E.3d at 540.
145. *See id.* at ¶ 34, 32 N.E.3d at 542.
146. *Id.* at ¶ 73, 32 N.E.3d at 549.
147. People v. Carter, 821 N.E.2d 233, 235 (Ill. 2004).
148. *Id.*
149. *Id.* at 237.
150. *Almond*, 2015 IL 113817 at ¶ 73, 32 N.E.3d at 549.
151. 720 ILL. COMP. STAT. 5/24-1.1(a) (2008).
152. *Almond*, 2015 IL 113817 at ¶¶ 38-39, 32 N.E.3d at 543 (citing 720 ILL. COMP. STAT. 5/2-1.1(e) (2008)).
153. *Id.* at ¶ 30, 32 N.E.3d at 541 (citing 720 ILL. COMP. STAT. 5/24-1.1(a) (2012)).
154. *Id.* at ¶ 36, 32 N.E.3d at 542.

version to mean just that: it is two crimes to possess a gun and ammunition inside that gun under the UUWF.[155]

The majority was correct to look to the plain meaning and the legislative history, but it again failed to correctly interpret the plain meaning of the UUWF. By failing to correctly interpret the plain meaning, the majority also incorrectly applied the legislative history. The amended version of the UUWF was intended to apply in situations analogous to *Carter*¸ where a person possessed a gun loaded with ammunition and was charged for both offenses under the UUWF. It is unclear, however, whether the legislator intended for this rule to apply in situations like *Almond*. Thus, at the very least, the court should have held the statute ambiguous, as to whether it applied when both possessions were charged under different statutes, and applied the rule of lenity to construe the statute in favor of the defendant.

2. Misapplication of Precedent

The *Almond* majority also looked to precedent in rendering its decision. Specifically, it looked to three cases: *Carter*, *Anthony*, and *Howard*.[156] Unfortunately, there is a distinct difference between those three cases and *Almond*. The majority first cited *Carter*,[157] but as argued *supra*, it is not binding because there the defendant was charged with both crimes under the UUWF. In contrast, the defendant in *Almond* was only charged with one crime under the UUWF, which is the critical difference in applying the amended version of the statute. The majority failed to note any difference between *Almond* and *Carter*, and this failure led the majority to apply the rule from *Carter* to *Almond* incorrectly.

The majority also cited *People v. Anthony*.[158] There, the defendant was convicted under the UUWF of two counts of possession of a weapon by a felon and with aggravated unlawful use of a weapon by a felon.[159] *Anthony* is also inapplicable because both possessions were, again, charged under the UUWF.[160]

Lastly, the majority cited to *People v. Howard* in which the defendant was found guilty of four counts under the UUWF, including one for possession of a firearm and one for possession of ammunition in that

155. *See id.*; People v. Carter, 821 N.E.2d 233, 234 (Ill. 2004); People v. Anthony, 2011 IL App. (1st) 091528-B, ¶ 17, 960 N.E.2d 1124, 1130; People v. Howard, 2014 IL App (1st) 122959, ¶ 16, 8 N.E.3d 450, 454.

156. *Almond*, 2015 IL 113817 at ¶¶ 37–40, 32 N.E.3d at 542–43.

157. *See id.* at ¶ 31, 32 N.E.3d at 541.

158. *Id.* at ¶ 40, 32 N.E.3d at 543.

159. *Anthony*, 2011 IL App. (1st) 091528-B, ¶ 1, 960 N.E.2d at 1125–26.

160. *Id.*

firearm.[161] The *Almond* court should not have considered *Howard* binding precedent, because unlike the defendant in *Almond*, the defendant in *Howard* was charged with both possessions under the UUWF.[162] Thus, the *Almond* court should have recognized the distinction between *Almond* and the precedential cases, and accordingly, it should not have made its ruling based upon those inapplicable cases.

3. The Majority's Interpretation Creates a Slippery Slope

Allowing the *Almond* majority's interpretation to control the application of the UUWF will result in profound and unintended consequences. If courts are permitted to interpret the amended version of the UUWF as allowing any person charged with possession of a firearm and possession of ammunition to constitute two different crimes, no matter how the crimes are charged (i.e. one under a different statute such as the habitual criminal statute and the other under the UUWF), the courts will be stepping into double jeopardy territory.[163]

This Illinois Supreme Court has stated that its primary goal when construing a statute is to give effect to the legislature's intent, which is best indicated by giving the statutory language its plain and ordinary meaning.[164] Even though the *Almond* majority recognizes this goal, it did the exact opposite by misconstruing the statute's text and applying an interpretation that does not reflect the legislature's intent or the purpose behind the statute.

Here, the court is throwing the plain words of a statute out of the window. The courts are cracking down on gun use and continuing to fight this war on drugs and war on crime, which is putting society in danger.[165] The court is interpreting a law in a way that makes felons more susceptible

161. People v. Howard, 2014 IL App (1st) 122958, ¶1, 8 N.E.3d 450, 451.

162. *Id.*

163. In *Blockburger v. United States*, the defendant was charged and convicted of selling drugs without their original packaging and without an original order. 284 U.S. 299, 300 (1932). There, the Court reasoned that the test of identity of offenses is "whether each [separate statutory] provision requires proof of a fact which the other does not." *Id*. at 304. The Court concluded that two offenses were committed. *Id.* Thus, "the Court held that the government may prosecute an individual for more than one offense stemming from a single course of conduct only when each offense requires proof of a fact that the other" does not; this rule "requires the courts to examine the elements of each offense as they are delineated by statute." Motion to Dismiss at 3, United States v. Beasley 2012 WL 3670413 (W.D. Tenn.) (citing *Blockburger*, 284 U.S. 299, 300).

164. *See, e.g.*, *Almond*, 2015 IL 113817 at ¶ 34, 32 N.E.3d at 542; People v. Elliott, 2014 IL 115308, ¶ 11, 4 N.E.3d 23, 25; People v. Lloyd, 2013 IL 113510, ¶ 25, 987 N.E.2d 386, 392.

165. The war on crime came about when the national violent crime rate was steadily ticking up in the 1960s. Stephanie Condon, *Is it Time to End the War on Crime?*, CBS NEWS, http://www.cbsnews.com/news/is-it-time-to-end-the-war-on-crime/ (last visited Apr. 3, 2015). As of 2012, the national violent crime rate has fallen and has continued to decrease. *Id.*

to unknowingly committing additional crimes and ultimately facing more jail time.[166] This interpretation is bad public policy and should not be allowed. Our justice system does not want criminals to walk free and commit crimes. As members of the justice system, we do not want our actions, or actions of any other citizens, to be broken into pieces. There must be strict rules that make sense, which is why it is essential for courts to correctly interpret the plain meaning of statutes.

B. One-Act, One-Crime Doctrine

The one-act, one-crime doctrine was created to prevent double prosecution and the carving of multiple crimes from one single act.[167] This Part argues that the court's decision to not apply this rule thwarts the rule's purpose, and the court should have applied the one-act, one-crime rule to vacate the defendant's lesser-included charge. Moreover, this Part proposes what the court should have done and concludes by arguing it is bad public policy to not apply this rule as it was intended to apply.

1. Purpose Behind the One-Act, One-Crime Doctrine

In *People v. Artis*, the Illinois Supreme Court stated that the genesis of the one-act, one-crime doctrine was the courts concern about adverse effects of multiple convictions on parole opportunities.[168] The court held that violations "adversely affecting the integrity of the judicial process under the second prong of the plain error rule," are to be analyzed under the one-act, one-crime doctrine, and ruled that the doctrine would not be abandoned.[169] The court reasoned the doctrine was rooted in principles of double jeopardy and applicable to all types of case, not just those dealing with parole opportunities.[170] The court noted that the main purpose of this rule was to prevent prejudice in cases where one act is broken down into

166. Roughly 2.2 million people in the United States are currently incarcerated—a 500% increase in the last 40 years. E. Ann. Carson, *Prisoners in 2013*, BUREAU OF JUSTICE STATISTICS BULLETIN, 2 (Sept. 30, 2014), http://www.sentencingproject.org/template/page.cfm?id=107. Over-incarceration is a major issue in the United States, and if we continue to play a part in the war on crime and drugs, we will have an even bigger problem. *See id*. One day, we will not be able to house all the criminals, and we will be faced with a decision to either change our laws or come up with a better criminal justice system. *Id.*

167. *See* People v. Artis, 902 N.E.2d 677, 680 (Ill. 2009).

168. *Id.* at 681.

169. *Id.* at 685.

170. *See id.* at 682, 685 (including cases where there is one greater and one lesser offense, cases where both offenses are lesser offenses, and juvenile cases).

multiple crimes; specifically, in instances where more than one offense is carved from the same physical act.[171]

The one-act, one-crime doctrine involves a two-step analysis:

> First, the court must determine whether a defendant's conduct involved multiple acts or a single act. Multiple convictions are improper if they are based on precisely the same physical act. Second, if the conduct involved multiple acts, the court must determine whether any of the offenses are lesser-included offenses.[172]

Under this doctrine the court should first look to the more serious offense to determine if it arose from the same physical act as the lesser-included offense.[173] If so, then the court should retain the more serious offense and vacate the conviction on the less serious offense.[174] To determine which of the two offenses is less serious, the court should consider the intent of the legislature as expressed in the plain language of the relevant statues.[175]

"[A] reviewing court [should] compare[] the relative punishments prescribed by the legislature for each offense," and if the punishments are identical, the court should then consider which offense "has the more culpable mental state."[176] Thus, the one with the less culpable mental state is the lesser offense, and it should be vacated.[177] If a court cannot determine which offense is more serious, the court should remand the case, and the trial court should make the determination.[178]

When and how exactly can one tell one act is separate from another similar act? The courts have given some guidance to determine when conduct constitutes separate acts, but it has concluded that these factors alone are not enough.[179] Some of the factors to take into consideration are: "the existence of an intervening act or event"; "the time interval [] between successive parts of defendant's conduct"; "the identity of the victim"; "the similarity of the acts performed"; "whether the conduct occurred at the

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171. People v. King, 363 N.E.2d 838, 839 (Ill. 1977); *Artis*, 902 N.E.2d at 681.
172. People v. Miller, 938 N.E.2d 498, 499 (Ill. 2010).
173. *King*, 363 N.E.2d at 844.
174. People v. Baker, 2015 IL App (5th) 110492, ¶ 41, 28 N.E.3d 836, 849 (citing People v. Garcia, 688 N.E.2d 57, 64–65 (Ill. 1997)).
175. People v. Johnson, 927 N.E.2d 1179, 1189 (Ill. 2010).
176. *Artis*, 902 N.E.2d at 686.
177. *Id.* at 687.
178. It is important for courts to apply this rule in cases where it is intended to be applied. A second punishment under the same statute for a single act is not merely a violation of the one-act, one-crime rule; it is a violation of constitutional protections against double jeopardy. *See id.* at 680.
179. People v. Rodriguez, 661 N.E.2d 305, 308 (Ill.1996) (citing People v. King, 363 N.E.2d 838, 844 (Ill. 1977)).

same location"; and prosecutorial intent as reflected in the charging instrument.[180]

The *Almond* court should have acknowledged that the one-act, one-rule doctrine is to apply under this set of facts. Here, the defendant was charged with two separate crimes carved from a single, physical act.[181] The court's next step should have been considering the purpose and plain wording of the doctrine and interpreting it to apply here.

2. How the Court Should Have Analyzed the One-Act, One-Crime Doctrine

After recognizing that this is the type of situation the one-act, one-crime doctrine was created to apply in, the court should have used the two-step analysis found in *People v. Manning*.[182] The first step asks whether the defendant's conduct involved multiple acts or a single act.[183] In *Almond*, the defendant was convicted of being a felon in possession of one loaded firearm.[184] In its most common and basic sense, possession of a firearm constitutes possession of a gun loaded with bullets.

When most people think of a gun, they think of an instrument used to shoot bullets, not an instrument used to strike or swing with. Thus, in the most basic interpretation, possession of a loaded gun should constitute a single action and a single offense. However, as the *Almond* court has correctly pointed out, the legislature amended the UUWF statute to allow for a conviction of a gun and a separate conviction for the ammunition inside the gun.[185] The court failed, however, to interpret and apply the plain wording of the statute, which specifically allows for two separate charges when both are charged under UUWF statute.[186]

After determining that the defendant was not charged with both possession of the gun and possession of the ammunition inside the gun under the UUWF, and that the amended version of the UUWF therefore did not apply, the court should have then moved on to the second step of the *Manning* analysis.[187] The second step asks whether either offense is a lesser-included offense of the other.[188] Here, the defendant was charged with two crimes; the first was possession of a gun under the armed habitual

180. People v. Baity, 465 N.E.2d 622, 623–24 (Ill. App. 1984).
181. People v. Almond, 2015 IL 113817, ¶ 49, 32 N.E.3d 535, 545.
182. People v. Manning, 2012 Ill. App. (1st) 102860-U, ¶¶ 23–24.
183. *Id.* at ¶ 23.
184. *Almond*, 2015 IL 113817 at ¶ 1, 32 N.E.3d at 537.
185. 720 ILL. COMP. STAT. 5/24-1.1(a) (2012).
186. *Almond*, 2015 IL 113817 at ¶ 75, 32 N.E.3d at 550.
187. *Manning*, 2012 IL App (1st) 102860-U, ¶ 23.
188. *Id.*

criminal statute.[189] The armed habitual criminal statute reads in relevant part:

> (a) A person commits the offense of being an armed habitual criminal if he or she receives, sells, possesses, or transfers any firearm after having been convicted a total of 2 or more times of any combination of the following offenses: (1) a forcible felony as defined in Section 2-8 of this Code; (2) unlawful use of a weapon by a felon; (3) any violation of the Illinois Controlled Substances Act or the Cannabis Control Act that is punishable as a Class 3 felony or higher. (b) Violation of this section shall be classified as a class X felony.[190]

The defendant's second charge was possession of the ammunition inside the gun under the UUWF statute.[191] That statute in relevant part states:

> (a) It is unlawful for a person to knowingly possess on or about his person or on his land or in his own abode or fixed place of business any weapon prohibited under Section 24-1 of this Act or any firearm or any firearm ammunition if the person has been convicted of a felon under the laws of this State or any other jurisdiction. (e) Violation of this Section by a person not confined in a penal institution shall be a Class 3 felony.[192]

The *Almond* court should have then determined which offense was less serious: armed habitual criminal or unlawful use of a weapon by a felon. Here, on its face, the armed habitual criminal charge is a more serious charge because a penalty for that crime is a class X felony,[193] whereas the penalty for a violation of the UUWF is only a class three felony, if the person is not confined in a penal institution.[194] If the court was not satisfied with just looking to the face of the penalty for each statute, the court could have then applied the six-factor test used in *Rodriguez* to

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189. *Almond*, 2015 IL 113817 at ¶ 72, 32 N.E.3d at 549; 720 ILL. COMP. STAT. 5/24-1.7 (2012).
190. 720 ILL. COMP. STAT. 5/24-1.1(a) (2012).
191. *Almond*, 2015 IL 113817 at ¶ 37, 32 N.E.3d at 542 (citing 720 ILL. COMP. STAT. 5/24-1.1 (2012)).
192. *Id.* at ¶ 37, 32 N.E.3d at 542.
193. *See* 720 ILL. COMP. STAT. 5/24-1.1 (2011). A class X felony can be punishable by a minimum of 6 years imprisonment, maximum 30 years imprisonment, and/or a fine not to exceed $25,000, unless specific offense designates otherwise. *See* 730 ILL. COMP. STAT. 5/5-4.5-25; Gino L. Divito, *Crimes and Punishment*, MEDIA LAW HANDBOOK CHAPTER 5 (Feb. 1, 2017), https://www.isba.org/sites/default/files/Media%20Law%20Handbook%20Chapter%2005%20-%20Crimes%20and%20Punishment.pdf.
194. *Id.* A class 3 felony can be punishable by a minimum of 3 years imprisonment, maximum 7 years imprisonment, and/or a fine not to exceed $25,000, unless specific offense designates otherwise. *See* 720 ILL. COMP. STAT. 5/24-1.1 (2012); 730 ILL. COMP. STAT. 5/5-4.5-40 (2012).

determine which of the two offenses was less serious.[195] Under the one-act, one-crime doctrine, courts should impose sentences on the more serious offense and vacate the less serious offense.[196] Thus, the court should have vacated the possession of the ammunition charge.

After determining that the one-act, one-crime doctrine should apply, and after analyzing this case under the *Manning* two-step process, the *Almond* court should have vacated defendant's UUWF charge, because under the one-act, one-crime doctrine the less serious offense should be vacated.

C. How the Court's Erroneous Interpretation Can Have an Unintended Impact on Society

The legislature makes laws when there is a need for a change or a remedy to a problem in society.[197] These rules are intended to provide social order and stability. The problem comes when the rules are not interpreted and applied correctly. The one-act, one-crime rule was enacted to prevent the splitting of crimes making one act equal just one crime.[198] This sounds simple and easy to apply, but the court in *Almond* did not apply the rule, leaving society confused as to when to apply this rule and further as to what constitutes one act.

If the possession of a loaded gun is two acts, does that mean speeding down a highway can be broken into different acts based on each mile marker? What about when a county clerk steals bond money over the course of three years?[199] Will the clerk be charged for every time she took money, for every dollar she took, for every year?[200] Is it good public policy to break crimes up like this? If courts interpret this statute the way the Illinois Supreme Court did in *Almond*, society will be allowing courts to make rules. The court's job is to interpret the rules, using legislative

195. People v. Rodriguez, 661 N.E.2d 305, 307 (Ill. 1996) (citing People v. Baity, 465 N.E.2d 622, 623-24 (Ill. App. 1984)).

196. *See* People v. King, 363 N.E.2d 838, 839 (Ill. 1977).

197. *See* People v. Brown, 2013 IL 114196, ¶ 36, 1 N.E.3d 888, 896 ("The court may consider the reason for the law, the problems sought to be remedied, the purposes to be achieved, and the consequences of construing the statute one way or another.") (citing People v. Gutman, 2011 IL 110338, ¶ 12, 959 N.E.2d 621; People v. Zimmerman, 942 N.E.2d 1228 (Ill. 2010)).

198. *See King*, 363 N.E.2d at 842.

199. In Williamson County, three former clerks were accused of collectively stealing approximately $85,000 in bond money; two plead guilty and negotiated a plea which requires them to each pay $30,000 in restitution by December 2018. Nick Mariano, *Former Clerks Plead Guilty to Theft, Official Misconduct*, SOUTHERN ILLINOISAN (May 15, 2015), http://thesouthern.com/news/local/communities/marion/former-clerks-plead-guilty-to-theft-official-misconduct/article_cfe987eb-610e-5512-ade9-60a3599ac373.html.

200. *Id.*

history to discern the legislative purpose and intent. Thus, society cannot allow interpretations such as this to govern how society is run.[201] This issue has left citizens unsure and confused about the law. If the courts do not provide citizens with a clear path of when to apply this rule, there will be constant confusion and eventually this rule will be moot.[202]

V. CONCLUSION

In conclusion, the Illinois Supreme Court was incorrect in its ruling, and its interpretation has carved out a rule that has neither a true beginning nor an end. First, the court interpreted the statute incorrectly by not adhering to the plain meaning of the statute. The court interpreted the statute to mean that whenever a person is in possession of a loaded gun, he or she can be charged with two possessions, no matter how the possessions are charged. This is incorrect and contrary to the plain language of the statute.

Next, the court applied nonbinding precedent. The three cases that the court relied upon did not apply, because in each of those cases, the defendants were charged with both possessions under the UUWF. As mentioned *supra*, the defendant in *Almond* was charged with possession of the gun under one statute, and possession of the ammunition inside the gun under a completely different statute.[203] This is a distinct difference that the majority failed to consider when applying precedent and rendering its decision.

Additionally, because the court interpreted the statute incorrectly and applied inapplicable precedent, the court failed to apply the one-act, one-crime rule to this case. If the court had correctly interpreted the statute, the court would have noticed that the amended version did not apply to *Almond*, because he was charged under two different statutes. If the court had applied the correct interpretation and precedent, it would have found the defendant to be charged with two crimes, resulting from one act, making the one-act, one-crime rule applicable.

Finally, the court's failure to apply the one-act, one-crime rule goes against public policy. When the legislature enacts a rule, it is because it sees a need for that rule in society. This rule's purpose is to prevent crimes,

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201. While it is in society's interest to fight crime, and deter criminals, there is a fine line between deterrence and over criminalization.

202. As mentioned *supra*, this rule is important to society because it applies to all different types of cases; moreover, this rule is important because the legislature has not abolished it, and the courts have not ruled it to be unconstitutional or contrary to public policy.

203. People v. Almond, 2015 IL 113817, ¶ 75, 32 N.E.3d 535, 545.

which stem from one act, from being broken into pieces.[204] In sum, the majority concluded erroneously. Therefore, this case should be overturned, or, in the alternative, the legislature should again amend the UUWF statute to make its meaning clearer, as well as setting an unambiguous standard for the application of the one-act, one-crime rule. Congress did not intend for one single act to constitute more than one crime.

204. *See* People v. King, 363 N.E.2d 838, 842 (Ill. 1977).