

APPELLATE COURT OF ILLINOIS, FIRST DISTRICT, FIFTH DIVISION

People v. Zanio

2025 IL App (1st) 241643 · No. 1-24-1643 · Decided December 12, 2025

SUMMARY

The Illinois Appellate Court reversed Robert Zanio’s conviction for disorderly conduct after a bench trial in which he had been charged only with battery. The court held that disorderly conduct was not a lesser-included offense of the charged battery under the charging-instrument approach and that the trial evidence did not support acquittal on the battery charge. The court therefore did not reach the defendant’s alternative challenges to the disorderly-conduct finding or the restitution order.

CASE DETAILS

COURT	Appellate Court of Illinois, First District, Fifth Division
WRITING FOR THE COURT	Justice Mikva; Presiding Justice Mitchell; Justice Tailor
JURISDICTION	Illinois Appellate Court, First District
DECIDED	December 12, 2025
DOCKET	1-24-1643
DISPOSITION	reversed
PROCEDURAL POSTURE	Defendant appealed from a bench-trial judgment finding him not guilty of charged battery but guilty of the uncharged offense of disorderly conduct, placing him under one year of supervision, and ordering \$500 in restitution.
STANDARD OF REVIEW	Whether an offense is lesser-included is reviewed de novo. The court stated that factual findings are generally reviewed under the manifest-weight-of-the-evidence standard and concluded that the battery acquittal could not survive even that deferential review.
PRECEDENTIAL VALUE	published
PARTIES	Robert Zanio v. The People of the State of Illinois

TOPICS

- due process
- criminal procedure
- appellate procedure
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court violated due process by convicting Zanio of disorderly conduct when that offense was not charged and was not a lesser-included offense of battery under the charging instrument.
2. Whether, assuming disorderly conduct could qualify as a lesser-included offense, the trial evidence rationally supported an acquittal on the charged battery offense.
3. Whether the trial court erred in ordering \$500 in restitution without evidentiary support.

HOLDINGS

1. Disorderly conduct was not a lesser-included offense of the charged battery because the charging instrument did not broadly describe conduct from which the breach-of-the-peace element of disorderly conduct could reasonably be inferred.
2. Even if disorderly conduct had been a lesser-included offense, the conviction could not stand because the evidence did not rationally support an acquittal on the charged battery.
3. The court did not reach the challenge to the \$500 restitution order because reversal of the disorderly conduct conviction resolved the appeal.

KEY QUOTATIONS

“An exception to this rule exists, however, if the uncharged offense ‘is a lesser-included offense of a crime expressly charged in the charging instrument and the evidence adduced at trial rationally supports a conviction on the lesser-included offense and an acquittal on the greater offense.’” (¶ 14)

“The charging instrument should notify both parties of all possible lesser-included offenses, so they can prepare their trial strategies.” (¶ 17)

“The court also found the error, though forfeited, satisfied the second prong of the plain-error doctrine, and in doing so, it explained that ‘any conviction ultimately entered should be based upon the evidence, not judicial fiat.’” (¶ 32)

“For the foregoing reasons, the trial court violated Mr. Zanio’s right to due process by finding him guilty of disorderly conduct where it was not a lesser-included offense of the charged battery offense and the evidence did not support an acquittal on the charged offense.” (¶ 39)

FACTUAL BACKGROUND

Robert Zanio, an 83-year-old teacher, was charged with battery for grabbing the breast of a 12-year-old student, A.C., over her clothing at school. A.C. testified that Zanio placed papers against her chest, grabbed her breast through the papers, and pushed her backward; her testimony was consistent with a recorded interview and was found credible and uncontradicted. The trial court acquitted Zanio of battery but found that the conduct constituted uncharged disorderly conduct, imposed supervision, and ordered \$500 in restitution.

PROCEDURAL HISTORY

Zanio was charged in the Circuit Court of Cook County with misdemeanor battery. Following a bench trial, the court acquitted him of battery but found him guilty of uncharged disorderly conduct, imposed one year of supervision, and ordered restitution. The Illinois Appellate Court reversed the judgment because disorderly conduct was not a lesser-included offense of the charged battery and the evidence did not rationally support acquittal on the battery charge.

DISPOSITION

reversed

CASES CITED

- People v. Clark, 2016 IL 118845
- People v. Cornejo, 2020 IL App (1st) 180199
- People v. Kolton, 219 Ill. 2d 353 (2006)
- People v. Allen, 288 Ill. App. 3d 502 (1997)
- People v. Pence, 2018 IL App (2d) 151102
- People v. Davis, 82 Ill. 2d 534 (1980)
- People v. McLennon, 2011 IL App (2d) 091299
- People v. Steger, 2018 IL App (2d) 151197
- People v. Baldwin, 199 Ill. 2d 1 (2002)
- People v. Hamilton, 179 Ill. 2d 319 (1997)
- People v. Davidson, 2023 IL 127538
- People v. Morgan, 2025 IL 130626

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