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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED April 08, 2026 11:33 AM
v	Nos. 375574; 375575 Tuscola Circuit Court
TARA LEE LUNA, Defendant-Appellant.	LC Nos. 2023-016130-FH; 2023-016131-FH

Before: KOROBKIN, P.J., and YOUNG and BAZZI, JJ.

PER CURIAM.

Defendant, Tara Lee Luna, pleaded guilty to possession of methamphetamine, MCL 333.7403(2)(b)(*i*), in two separate cases. Luna was initially sentenced to probation for both offenses. One year into her three year probationary term, Luna was unsuccessfully discharged from mental health court, thereby violating her probation. For her probation violation, the Tuscola Circuit Court nearly doubled the top end of the guidelines range for her methamphetamine offenses and imposed prison terms of 3 to 10 years. Luna appeals by leave granted,[1] and argues she is entitled to resentencing because her above-guidelines sentences were disproportionate. For the reasons set forth in this opinion, we vacate and remand for resentencing.

I. FACTUAL BACKGROUND

Following two separate traffic stops where methamphetamine was found on Luna's person and in her vehicle, Luna pleaded guilty to two felony possession-of-methamphetamine charges, one in each file. On August 8, 2023, the trial court sentenced Luna to three years' probation for the possession charges. The court found Luna, then age 35 and mother to an approximately 15 old daughter, had "good potential for reformation and rehabilitation." The trial court required Luna

[1] *People v Tara Lee Luna*, unpublished order of the Court of Appeals, entered June 16, 2025 (Docket No. 375574); *People v Tara Lee Luna*, unpublished order of the Court of Appeals, entered June 16, 2025 (Docket No. 375575).

to enroll in and successfully complete the Thumb Mental Health Court Program and adhere to other special conditions, including the following:

- No use or possession of alcoholic beverages or other intoxicants
- No use or possession of any controlled substances or drug paraphernalia
- Must submit to drug testing and must not attempt to submit fraudulent or adulterated samples for testing
- Must attend AA, NA, and/or CA meetings and complete outpatient or residential substance abuse treatment
- No contact with any felons without permission from a field agent

Finally, the trial court sentenced Luna to 180 days in jail with credit for 102 days served but deferred the remaining 78 days because the trial court was "hopeful that the mental health court will be a bigger benefit to [her]."

On August 12, 2024, Luna was "unsuccessfully discharged" from mental health court. On November 18, 2024, Luna waived her right to a hearing on whether she violated probation, admitted that she was unsuccessfully discharged from mental health court, and entered guilty pleas in both cases to violating the terms of her probation. Luna's guidelines range for the probation violations was in an intermediate sanctions cell that recommended a minimum sentence of 0 to 17 months.

At sentencing on January 7, 2025, defense counsel acknowledged that Luna "surrounds herself with the wrong people" and "then makes bad decisions based on that." Defense counsel also noted Luna stopped using methamphetamine "but continued to associate with people who put herself and her daughter at risk." Defense counsel, noting that Luna became pregnant sometime before sentencing, requested the sentencing court give Luna "PA 511 status" and continue on probation when she discharges from jail so that monitoring can be done, and that no additional jail time be incurred so she can have her baby outside of jail. The prosecutor asked for Luna's probation to be extended. The trial court went on to render a departure sentence:

> So, the [c]ourt first of all has to decide if a guideline sentence is appropriate for Ms. Luna. The [c]ourt finds that a guideline sentence is not appropriate for Ms. Luna.
>
> The [c]ourt has to make a determination as to what is a reasonable and proportional sentence for her behavior. She failed miserably in mental health court, continually used prohibited substances under her program agreement. But additionally, violated probation by missing tests, socializing with felons, utilizing alcohol, not reporting truthfully, missing treatment appointments, and continuing to have contact with prohibited individuals.
>
> Now to say having contact with prohibited individuals, there's a little more to it than that. And that is that Ms. Luna was basically pimping out her daughter to her sex offender boyfriends. And when confronted about that in—in treatment court—

> and in an attempt to eliminate that behavior in the treatment court, Ms. Luna engaged in a continuous and long practice of lying, manipulating, and purposely going around supervision, whether it be the mental health court and/or her probationary supervision. And all of this is set forth quite well in the report which was drafted by Agent Breinager. And so for all of those reasons, a term of incarceration is in order.
>
> Ms. Luna was given a long opportunity through the treatment court to not only address her controlled substance problem, but to address her deficits in parenting, as well as her mental health issues. Her childhood was horrible. Her upbringing was horrible. The [c]ourt recognized this at the time of the original sentencing and thought that an opportunity to participate in the treatment court would give her an opportunity to engage in community resources and take care of the problems. Well, the problems are much larger than her substance abuse problem, which I am not convinced that she actually has addressed adequately. But there is no way that she can remain on probation.

The trial court revoked Luna's probation and sentenced her to 3 to 10 years imprisonment, with credit for 225 days served. After rendering the sentence, the trial court stated: "Let's hope to God that whatever baby you're going to have in prison is taken away so that that baby has a chance." This Court granted Luna's applications for leave to appeal.[2]

II. THE TRIAL COURT FAILED TO JUSTIFY THE EXTENT OF THE GUIDELINES DEPARTURE

Luna argues on appeal that her above guidelines sentences of 3 to 10 years' imprisonment violated the principle of proportionality. We agree, in part.

A. ISSUE PRESERVATION AND STANDARD OF REVIEW

"There are no special steps that a defendant must take to preserve the question whether [a] sentence was proportional" and "there is no preservation requirement when the trial court imposes a sentence more severe than the sentencing guidelines recommend." *People v Walden*, 319 Mich App 344, 350-351; 901 NW2d 142 (2017). "Sentencing decisions are reviewed for an abuse of discretion." *People v Boykin*, 510 Mich 171, 182; 987 NW2d 58 (2022). "An abuse-of-discretion standard recognizes that there may be more than one principled outcome[,] and the trial court may not deviate from that principled range of outcomes." *Id*.

B. REVIEWING DEPARTURE SENTENCES

"The principle of proportionality requires that every sentence be tailored to the individual defendant; the sentence imposed must be proportionate to the seriousness of the offense and the

[2] The appeals were consolidated to advance the efficient administration of the appellate process. *People v Tara Lee Luna*, unpublished order of the Court of Appeals, entered June 20, 2026 (Docket Nos. 375574 & 375575).

background of the offender." *People v Copeland*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 363925); slip op at 3, citing *People v Steanhouse*, 500 Mich 453, 472; 902 NW2d 327 (2017).

"For sentences that depart from the guidelines, [] there is no presumption of proportionality," *People v Brcic*, ___ Mich App ___, ___; ___ NW3d ___ (2026) (Docket Nos. 362727 and 366230); slip op at 10, and these departure sentences are reviewed for reasonableness, *Walden*, 319 Mich App at 351, citing *People v Lockridge*, 498 Mich 358, 391-392; 870 NW2d 502 (2015).

> Relevant factors for determining whether a departure sentence is more proportionate than a sentence within the guidelines range continue to include (1) whether the guidelines accurately reflect the seriousness of the crime; (2) factors not considered by the guidelines; and (3) factors considered by the guidelines but given inadequate weight. *People v Dixon-Bey*, 321 Mich App 490, 525; 909 NW2d 458 (2017) (citations omitted).

Where a trial court "judge articulate[s] adequate reasons to support *a* departure, but fail[s] to justify the *extent of* the departure," a trial court abuses its discretion. *People v Smith*, 482 Mich 292, 295; 754 NW2d 284 (2008) (emphasis added); see also *Steanhouse*, 500 Mich at 476 (if the trial court fails to provide adequate reasons for the extent of the departure sentence imposed, this Court must remand to the trial court for resentencing). Again, while the "key test is whether the sentence is proportionate to the seriousness of the matter, not whether it departs from or adheres to the guidelines' recommended range," *Steanhouse*, 500 Mich at 475, reviewing the explanation offered for the extent of the departure is a necessary component to that analysis.

Luna's offense variable (OV) score was zero placing her at OV Level I, and her prior record variable (PRV) score was 37, placing her at PRV Level E. Luna's recommended guidelines range was 0 to 17 months. For Class D offenses, the 17-month cell has an asterisk next to it, making it an intermediate sanction cell. Intermediate sanction cell refers to those cells in which the upper limit recommended by the guidelines is 18 months or less. See MCL 769.34(4)(a). When an offender's OV and PRV levels place them in an intermediate sanction cell, an intermediate sanction[3] is an appropriate sentence "unless the court *states on the record reasonable grounds* to sentence the individual to . . . the jurisdiction of the department of corrections for any sentence over 12 months." *Id*. (emphasis added).

C. THE TRIAL COURT FAILED TO ARTICULATE REASONS FOR THE EXTENT OF THE DEPARTURE

At sentencing, the trial court summarized Officer Breinager's report of Luna's probation violation. We requested the report, but it is not available for us to review. The trial court's summary details that Luna "failed miserably" in mental health court, continued to use prohibited substances like drugs and alcohol, missed drug tests, socialized with felons, "was basically

[3] " 'Intermediate sanction' means probation or any sanction, other than imprisonment in a county jail, state prison, or state reformatory, that may lawfully be imposed." MCL 769.31(b).

pimping out her daughter to her sex offender boyfriends," and "engaged in a continuous and long practice of lying, manipulating, and purposely going around supervision, whether it be the mental health court and/or her probationary supervision." These violations of the terms of her probation, according to the trial court, warrant a prison sentence.

Luna's maximum minimum sentence under the guidelines was 17 months which itself would have guaranteed a minimum sentence in prison. In addressing the reasons to depart from the guidelines, the trial court emphasized "a term of incarceration was in order" and that "there is no way that she can remain on probation." But, again, a sentence within the guidelines would have achieved those disciplinary goals. We could engage in our own rationalizing, observing, for example, that Luna's offense variables are scored at zero and thus there are some (maybe even all) aspects of her probation violation that are not accounted for in the guidelines, but this is not the rationale offered by the trial court. We decline to sua sponte fill in the gaps because doing so would be contrary to our highly deferential standard of review and to our own jurisprudence. See e.g., *People v Mason*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 367687); slip op at 5; *Smith*, 482 Mich at 304 ("[I]f it is unclear why the trial court made a particular departure, an appellate court cannot substitute its own judgment about why the departure was justified. A sentence cannot be upheld when the connection between the reasons given for departure and the extent of the departure is unclear.").

We are obligated to vacate Luna's sentence and remand for resentencing.

D. CONSIDERATION OF PREGNANCY AT SENTENCING

Luna argues that her pregnancy should have been considered a mitigating factor, but it was instead treated as aggravating by the trial court. While we acknowledge Luna is no longer pregnant so this issue will not be present at resentencing, pregnancy-related issues with sentencing are issues of "public significance that [are] likely to recur, yet evade judicial review" because of the relative brevity of the human gestation period when compared to a life cycle of a case in appellate courts. See *Federated Publications, Inc v Lansing*, 467 Mich 98, 113; 649 NW2d 383 (2002) ("[T]his Court does not reach moot questions or declare principles or rules of law that have no practical legal effect in the case before us unless the issue is one of public significance that is likely to recur, yet evade judicial review."). Thus, we are permitted to address this issue.

However, from our review of the record, it does not appear that the trial court considered Luna's pregnancy an aggravating factor in imposing sentence. Doing so would have surely been constitutionally problematic as this Court has indicated before when a trial court "fashioned a sentence based solely on [defendant's] pregnancy" and that "but for defendant's pregnancy, the trial court would have imposed a different or lesser sentence." *People v Hughes*, unpublished per curiam opinion of the Court of Appeals, issued July 9, 2019 (Docket No. 348991), pp 4-5.[4] This Court reasoned:

[4] "Unpublished opinions are not binding, but may be persuasive." *People v Daniels*, 311 Mich App 257, 268 n 4; 874 NW2d 732 (2015).

> We conclude that the trial court's reasoning behind defendant's sentence is constitutionally inappropriate, prejudicial, and exemplifies extreme bias. . . . Where our Supreme Court has held that discrimination "on the basis of a woman's pregnancy" constitutes discrimination based on sex, *Haynie v State*, 468 Mich 302, 310; 664 NW2d 129 (2003), we cannot allow any defendant's sentence to stand when it is the product of constitutionally impermissible discrimination. In sum, we conclude that the trial court's reasoning in imposing a sentence of 13 to 24 months' imprisonment amounted to an impermissible consideration of defendant's sex and therefore defendant's sentence cannot stand. [*Hughes*, unpub op at 5.]

This case is different than *Hughes*. Here, after issuing a sentence and on its own initiative, the trial court concluded the sentencing hearing with the statement, "Let's hope to God that whatever baby you're going to have in prison is taken away so that that baby has a chance." This does not appear to have been the rationale for the departure sentence, so it does not affect our disposition of this appeal. That said, we acknowledge that the comment was inappropriate. Judges should refrain from expressing personal views on a defendant's parenting when, as was the case here, such a statement is not relevant to the issues before the court, and particularly after a sentence has been imposed. See Code of Judicial Conduct, Canons 2(B), 3(A)(3) and (15).

III. CONCLUSION

Vacated and remanded for resentencing. On remand, the trial court shall articulate the rationale for the extent of any departure. We do not retain jurisdiction.

/s/ Daniel S. Korobkin
/s/ Adrienne N. Young
/s/ Mariam S. Bazzi