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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED October 08, 2026 12:04 PM
v	No. 375710 Genesee Circuit Court
KENYA ALI HYATT, Defendant-Appellant.	LC No. 2013-032654-FC

Before: WALLACE, P.J., and CAMERON and KOROBKIN, JJ.

PER CURIAM.

Defendant, Kenya Ali Hyatt, appeals by right following resentencing. In this appeal, defendant challenges his sentence of 30 to 70 years' imprisonment for first-degree felony murder, MCL 750.316(1)(b), on two grounds. First, he contends that the trial court erred by failing to consider his youth as mitigating. Second, he argues that his sentence is cruel or unusual punishment in violation of Article 1, § 16 of the Michigan Constitution. For the reasons stated in this opinion, we disagree with defendant's arguments and therefore affirm.

I. BACKGROUND AND FACTS

This Court summarized the facts of the case in a previous appeal as follows:

> On August 14, 2010, the victim, a security guard at River Village Apartments in Flint, was killed after being shot multiple times. Floyd Gene Perkins, Aaron Williams and [defendant] each gave statements to police officer Terence Green, and each implicated himself in the murder. The statements revealed that Perkins and his family were in danger because of a dispute Perkins had with an individual. Perkins wanted to obtain a firearm to help him protect his family. Williams and [defendant] were Perkins' cousins, but were not related to one another. The three individuals devised a plan in which Perkins could obtain a gun. Williams lived in the apartment complex where the murder took place and knew that the security guards who worked there were armed. Williams borrowed a gun from an individual known as "Chief." The idea was that Perkins, [defendant] and Williams would use the borrowed gun to rob one of the security guards of his

> firearm. On the night of the shooting, Williams acted drunk and disorderly in the apartment complex's parking lot in order to lure the victim out of his security car. When the victim approached Williams, Perkins and [defendant] approached from behind. Perkins grabbed the victim and held him while [defendant] drew the gun he had received from Williams. Both Perkins and [defendant] indicated that the victim reached for [defendant]'s gun and the gun discharged. After that first shot, Perkins grabbed the victim's side-arm and ran away. Perkins heard additional shots as he was fleeing. [Defendant] maintained that the first shot was accidental and that he subsequently "blacked out" and could not remember what happened afterwards. [*People v Hyatt (On Remand)*, unpublished per curiam opinion of the Court of Appeals, issued December 4, 2018 (Docket No. 325741), pp 1-2, vacated 510 Mich 1103 (2022) (cleaned up).]

Defendant, Perkins, and Williams were tried jointly before separate juries, and defendant was convicted of first-degree felony murder, as well as conspiracy to commit armed robbery, MCL 750.529; armed robbery, MCL 750.529; and possessing a firearm during the commission of a felony (felony-firearm), MCL 750.227b(1).

> Because [defendant] was 17 years old when the offense occurred, the trial court held a *Miller*[1] hearing to determine [defendant]'s sentence. It ultimately sentenced [defendant] to life without the possibility of parole [(LWOP)] for the murder conviction, 210 months to 40 years' imprisonment for each of the conspiracy to commit armed robbery and armed robbery convictions, and two years' imprisonment for the felony-firearm conviction. [*Id.* at 2 (quotation marks and citation omitted).]

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[1] *Miller v Alabama*, 567 US 460; 132 S Ct 2455, 2457; 183 L Ed 2d 407 (2012). *Miller* held that mandatory life imprisonment without the possibility of parole for those under the age of 18 at the time they committed the sentencing offense violated the prohibition against cruel and unusual punishment under the Eighth Amendment to the United States Constitution, US Const, Am VIII.

Defendant, Perkins, and Williams then appealed to this Court, which concluded that in "[i]n light of this Court's decision in *People v Skinner*, 312 Mich App 15, 877 NW2d 482 (2015), [defendant had to] be resentenced so that a jury [could] determine whether he should receive" LWOP. *People v Perkins*, 314 Mich App 140, 145; 885 NW2d 900 (2016), vacated in part by unpublished order of the Court of Appeals, entered February 12, 2016 (Docket Nos. 323454, 323876, and 325741), superseded in part sub nom *People v Hyatt*, 316 Mich App 368; 891 NW2d 549 (2016), aff'd in part, rev'd in part sub nom *People v Skinner*, 502 Mich 89; 917 NW2d 292 (2018). This Court explained that "were it not for *Skinner*, we would affirm the sentencing court's decision to sentence [defendant] to" LWOP. *Perkins*, 314 Mich App at 145.

About two years later, our Supreme Court reversed *Skinner* in a consolidated case that also addressed *Hyatt*, 316 Mich App 368, holding that "the decision to sentence a juvenile to [LWOP] is to be made by a judge and . . . to be reviewed under the traditional abuse-of-discretion standard,"

and remanded to this Court to review defendant's sentence under the abuse-of-discretion standard. *Skinner*, 502 Mich at 137-138. On remand, "no longer constrained by this Court's decision in *Skinner*," this Court upheld defendant's sentence to LWOP. *Hyatt (On Remand)*, unpub op at 3.

Defendant thereafter applied for leave to appeal this Court's decision to our Supreme Court. Our Supreme Court held defendant's application in abeyance pending its decision in *People v Taylor*, 510 Mich 112; 987 NW2d 132 (2022) (*Taylor I*), and following the issuance of its *Taylor* opinion, again considered defendant's application. *Hyatt*, 510 Mich at 1103. In lieu of granting leave to appeal, our Supreme Court vacated this Court's judgment and defendant's sentence and remanded to the trial court for resentencing, explaining:

> A court may not impose a sentence of [LWOP] on a defendant who was under 18 years of age at the time of his crime unless the prosecution has overcome its burden to rebut the presumption, by clear and convincing evidence, that [LWOP] is a disproportionate sentence. Because the sentencing court in this case was not operating within this framework, the defendant is entitled to resentencing. [*Id.* at 1103-1104, citing *Taylor I*, 510 Mich 112.]

On remand, the prosecution decided not to seek LWOP at resentencing, opting instead for a term of years under MCL 769.25. Defendant was then resentenced by the trial court to concurrent sentences of 30 to 70 years' imprisonment for the first-degree murder conviction and 126 to 210 months' imprisonment for the conspiracy to commit armed robbery and armed robbery convictions. Defendant was also sentenced to two years' imprisonment for the felony-firearm conviction, to be served consecutively to his other sentences. Defendant now appeals.

II. ANALYSIS

A. CONSIDERATION OF YOUTH AS MITIGATING

Defendant first contends that the trial court erred at resentencing by failing to consider his youth and its distinctive characteristics as mitigating pursuant to *People v Boykin*, 510 Mich 171; 987 NW2d 58 (2022). We disagree.

This Court reviews sentencing decisions for an abuse of discretion. *Id.* at 182. This 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.* An abuse of discretion occurs when "the sentence imposed is not 'proportionate to the seriousness of the circumstances surrounding the offense and the offender.' " *People v Campbell*, ___ Mich App ___, ___; ___ NW3d ___ (2025) (Docket No. 368742); slip op at 3, quoting *People v Steanhouse*, 500 Mich 453, 459-460; 902 NW2d 327 (2015).

In fashioning all sentences, a trial court is guided by the "four basic sentencing considerations": "(1) reformation of the offender; (2) protection of society; (3) disciplining of the wrongdoer; and (4) deterrence of others from committing like offenses." *Boykin*, 510 Mich at 183, 188 (quotation marks omitted), quoting *People v Snow*, 386 Mich 586, 592; 194 NW2d 314 (1972). And as part of the broader "principle of proportionality, which requires sentences imposed to be proportionate to the seriousness of the circumstances surrounding the offense and the offender,"

our Supreme Court has mandated the consideration of a juvenile defendant's youth and the mitigating qualities of youth within these sentencing criteria. *Boykin*, 510 Mich at 188-189, 193 (cleaned up); see also *People v Copeland*, 350 Mich App 577, 584-585; 34 NW3d 9 (2024). The mitigating qualities of youth, referred to often as "the *Miller* factors" after the United States Supreme Court's decision in *Miller v Alabama*, 567 US 460; 132 S Ct 2455; 183 L Ed 2d 407 (2012), include:

> (1) the juvenile's chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences; (2) the juvenile's family and home environment—from which he cannot usually extricate himself—no matter how brutal or dysfunctional; (3) the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him; (4) the incompetencies of youth, which affect whether the juvenile might have been charged with and convicted of a lesser crime, for example, because the juvenile was unable to deal with law enforcement or prosecutors or because the juvenile did not have the capacity to assist their attorney in their own defense; and (5) the juvenile's possibility of rehabilitation. [*Copeland*, 350 Mich App at 590-591 (quotation marks omitted and citation).]

Youth must be treated as "a mitigating factor when imposing a term-of-years sentence on a juvenile defendant." *Campbell*, ___ Mich App at ___; slip op at 6, citing *Boykin*, 510 Mich at 188-189. But there is "no requirement for an on-the-record *articulation* of how youth or the *Miller* factors affected a sentence." *Boykin*, 510 Mich at 192 (emphasis added). In fact, strictly speaking, the *Miller* factors are directly relevant only when a trial court is asked to consider imposing an LWOP sentence. See *Copeland*, 350 Mich App at 591 ("When a juvenile defendant is sentenced to a term of years, there is no requirement that the sentencing court consider the *Miller* factors, expressly or otherwise."). A sentencing court thus need not "articulate a basis on the record to explain *how* youth affected the sentence imposed" nor "give a detailed on-the-record explanation of one or more specific factors." *Boykin*, 510 Mich at 192-193 (emphasis added). "More generally, there are no magic words or phrases that a trial court must use to show that it adequately considered the mitigating qualities of youth . . . ." *Copeland*, 350 Mich App at 587. Instead, the trial court "is required only to make a record demonstrating that the court considered the defendant's youth and treated it as a mitigating factor." *Id*. And as with the sentencing of any defendant, a trial court must "adequately explain its sentence on the record in order to facilitate appellate review." *Boykin*, 510 Mich at 194.

On appeal, defendant argues that the trial court failed to properly consider his youth and its mitigating characteristics, taking particular issue with the court's articulated consideration of the individual *Miller* factors. We are not persuaded. First and foremost, as previously stated, the trial court was not required to expressly consider the individual *Miller* factors, expressly or otherwise. *Copeland*, 350 Mich App at 591. Thus, to the extent that defendant challenges the trial court's failure to do so, our state's caselaw is clear that the trial court has no such obligation.

And more fundamentally, it is evident from the record that the trial court did consider defendant's youth and treat it as mitigating. As a general matter, the trial court's discussion makes clear that it was well aware of its obligation to consider defendant's youth and that it indeed treated

defendant's youth as a mitigating factor in imposing defendant's ultimate sentence. For example, the trial court explained that it was required to consider defendant's youth given "the science" of "brain development" and the "prefrontal cortex." The trial court also demonstrated its consideration of defendant's youth in stating that defendant was "a kid" when he was "sent to prison" and that it "c[ould] imagine the child [defendant was] when all this happened."

The trial court also expressly considered many of the *Miller* factors despite, again, being under no obligation to do so. *See Boykin*, 510 Mich at 192; *Copeland*, 350 Mich App at 591. As to defendant's "chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences[,]" *Copeland*, 350 Mich App at 590, the trial court repeatedly referenced the different type of person defendant was at the time of the offense. For example, the court explained that defendant "was at this stage where [he] w[as] at in [his] life where [he] though this kind of action was a good idea or that [he] made those decisions" and stated that the information in defendant's mitigation report weighed heavily in the court's decision in light of "the person [defendant] w[as] at the time that th[e] offense was committed." Moreover, the court expressed sympathy for defendant regarding his "family and home environment." *Id.* Specifically, the trial court described defendant's childhood as "haunting" and unfair, stating that "a child shouldn't have lived a life like that," and noted that it found "significant" defendant's statement as a child that he never had a home because "everywhere [he] went, [he] was evicted."

Further, the trial court evidently considered defendant's "family and home environment" as well as "the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him[,]" *id.*, when it stated that it "ma[de] sense" that defendant thought "th[e] kind of action" underlying defendant's offense "was a good idea or that [he] made those decisions . . . because" he never had long-term relationships "with family, with people who cared for [him] . . . at crucial stages in [his] brain development." The trial court additionally stated its understanding that "[t]he decision [defendant] made that day . . . was severely impacted by [his] youthfulness and by [his] circumstances," again demonstrating the court's consideration of defendant's youth and its accompanying characteristics in the context of his upbringing and the circumstances of his particular offense. And finally, the trial court expressly considered defendant's potential for rehabilitation. See *id.* at 591. The court pointedly concluded that defendant has "made efforts towards reformation and for future protection of society" and lauded defendant for "the positives of what [he] ha[s] accomplished, what goals [he] ha[s] set, and the support system [he] ha[s] because some day [he] will be released." The trial court also explained that defendant had "a lot of people who support" him, highlighting specifically that defendant's cousin would be able to mentor, guide, and "keep [defendant] going once" he is released.

In sum, despite being under no obligation to "explain how youth affected the sentence imposed" or to "give a detailed on-the-record explanation of" how various *Miller* factors affected the imposed sentence, *Boykin*, 510 Mich at 192-193, the trial court did just that. The trial court's description of defendant's familial and home circumstances, his age and immaturity at the time of the offense, and his potential for rehabilitation all illustrate that the court considered defendant's youth and treated it as mitigating in fashioning defendant's sentence. See *id.*; *Campbell*, ___ Mich App at ___; slip op at 6. Compare *Copeland*, 350 Mich App at 591, 603 (concluding that the trial court did not abuse its discretion in imposing a defendant's sentence when the court "expressly

considered the *Miller* factors despite not being required to do so and placed its findings on the record") with *Campbell*, ___ Mich App at ___; slip op at 8 (concluding that the trial court did not create a record that it was treating defendant's youth as mitigating when it focused "primarily on the nature of the offense" and described how it was "disgusted by defendant's behavior" but "did not consider this behavior in light of the mitigating factors of youth announced in *Miller* and its progeny") (cleaned up).

We also disagree with defendant's argument that the trial court improperly treated the *Miller* factors as aggravating. Defendant is correct that trial courts may not weigh the mitigating qualities of youth in favor of a longer sentence, see *Taylor I*, 510 Mich at 139 n 25 ("We caution the trial courts to ensure that the *Miller* factors are not used as aggravators."), but the trial court's discussion makes clear that it did not employ the *Miller* factors for such improper means. As we have described, the trial court discussed many of the *Miller* factors at length, expressing sympathy for defendant in the process and explaining that given defendant's strained relationship with family at critical stages in his brain development, it "ma[de] sense" that defendant thought "th[e] kind of action" underlying defendant's offenses "was a good idea or that [he] made those decisions." The trial court also clearly found that those factors mitigated against a harsher sentence, noting that defendant would not "be leaving . . . with a life sentence" and instead imposing a sentence within, and in the lower half of, the statutorily imposed minimum range. Thus, contrary to defendant's contention, the trial court properly considered defendant's youth and its mitigating qualities as weighing against a longer sentence. See *Campbell*, ___ Mich App at ___; slip op at 6.

For these reasons, the trial court's discussion constitutes an "adequate[] expla[nation of] its sentence on the record in order to facilitate appellate review." *Boykin*, 510 Mich at 194. Likewise, the trial court satisfied its obligation to "make a record demonstrating that [it] considered . . . defendant's youth and treated it as a mitigating factor." *Copeland*, 350 Mich App at 587. We accordingly find no abuse of discretion. See *Boykin*, 510 Mich at 182.

B. CRUEL OR UNUSUAL PUNISHMENT

Defendant next contends that his term-of-years sentence is an unconstitutional de facto life sentence. On plain-error review, we disagree.

This Court generally reviews constitutional questions, including "[w]hether a defendant's sentence constitutes cruel or unusual punishment under Const 1963, art 1, § 16[,]" de novo. *People v Eads*, ___ Mich ___, ___; ___ NW3d ___ (2026) (Docket No. 168205); slip op at 7. But because defendant failed to raise this claim in the trial court, it is unpreserved. See *People v Burkett*, 337 Mich App 631, 635; 976 NW2d 864 (2021) ("To preserve a claim that the defendant's sentences were unconstitutionally cruel or unusual, the defendant must raise the claim in the trial court."). "This Court reviews unpreserved issues, whether of constitutional or nonconstitutional magnitude, for plain error affecting substantial rights." *People v Lillis*, ___ Mich App ___, ___; ___ NW3d ___ (2026) (Docket No. 372637); slip op at 3, citing *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999); see also *People v Bowling*, 299 Mich App 552, 557; 830 NW2d 800 (2013) (reviewing for plain error a defendant's unpreserved challenge to his sentences as unconstitutionally cruel or unusual). And to succeed in this Court under the plain-error standard, "a defendant bears the burden of persuasion and must show that (1) error occurred, (2) the error was plain, i.e., clear or obvious, and (3) the plain error affected a substantial right of the defendant."

Lillis, ___ Mich App at ___; slip op at 3 (cleaned up). "Reversal is then warranted only if the plain, forfeited error resulted in the conviction of an actually innocent defendant or when an error seriously affected the fairness, integrity, or public reputation of judicial proceedings." *Id.* (quotation marks and citation omitted).

"In Michigan, if a defendant is under 21 years old at the time of their crime and is 'convicted of certain enumerated offenses, including first-degree murder, the prosecut[ion] may file a motion seeking to have the juvenile sentenced to LWOP.' " *People v Black*, ___ Mich ___, ___; ___ NW3d ___ (2026) (Docket No. 168159); slip op at 8, quoting *Taylor I*, 510 Mich at 130 and citing MCL 769.25(2). If the prosecution opts not to file such a motion, a sentencing court must sentence the defendant to a term-of-years sentence in which "the maximum term [is] not less than 60 years and the minimum term [is] not less than 25 years or more than 40 years." MCL 769.25(4), (9). Hence, because the prosecution in the present case did not seek to have defendant sentenced to LWOP, the trial court was required by statute to sentence defendant to a minimum term between 25 to 40 years' imprisonment and a maximum term of at least 60 years' imprisonment. MCL 769.25(4), (9). Defendant's 30-year minimum sentence thus falls within the legislatively mandated range, and his 70-year maximum sentence is statutorily authorized to the extent that it exceeds the 60-year baseline set forth in MCL 769.25(9).

The Michigan Constitution prohibits the infliction of "cruel or unusual punishment," Const 1963, art 1, § 16, a ban which "provid[es] greater protection for youthful offenders than that provided by" the United States Constitution's Eighth Amendment cruel-*and*-unusual-punishment clause, *Eads*, ___ Mich at ___; slip op at 9. For example, it is under Const 1963, art 1, § 16, that our Supreme Court found unconstitutional "mandatorily subjecting 18-year-old defendants convicted of first-degree murder to" LWOP, *People v Parks*, 510 Mich 225, 268; 987 NW2d 161 (2022), a holding that was extended last year to defendants who were 19 and 20 years old "when they committed the offense for which they were convicted," *People v Taylor*, ___ Mich ___, ___; ___ NW3d ___ (2025) (Docket Nos. 166428 and 166654) (*Taylor II*); slip op at 13. In determining whether a punishment is cruel or unusual in violation of the Michigan Constitution, this Court considers the four so-called *Bullock*[1] factors:

> (1) the severity of the sentence relative to the gravity of the offense; (2) sentences imposed in the same jurisdiction for other offenses; (3) sentences imposed in other jurisdictions for the same offense; and (4) the goal of rehabilitation . . . . [*Eads*, ___ Mich at ___; slip op at 10 (quotation marks and citation omitted).]

1. DE FACTO LIFE SENTENCE

Before applying the *Bullock* factors to defendant's sentence, we begin by examining a central premise of defendant's constitutional challenge: his assertion that his 30- to 70-year sentence is a "de facto life sentence." Our Supreme Court has signaled that significant constitutional concerns exist when a juvenile is not formally sentenced to LWOP but is deprived of "a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." *People v Stovall*, 510 Mich 301, 320; 987 NW2d 85 (2022) (quotation marks and citation omitted).

[1] *People v Bullock*, 440 Mich 15; 485 NW2d 866 (1992).

This concern is heightened when the sentence is not accompanied by the "significant procedural safeguards" afforded to defendants for whom the prosecution formally seeks an LWOP sentence:

> LWOP can be imposed on such an offender only if the prosecutor moves to impose such a sentence, see MCL 769.25(2) and (3); MCL 769.25a(4)(b), the trial court conducts a hearing to consider the *Miller* factors, see MCL 769.25(6); MCL 769.25a(4)(b), and, after considering these factors, the trial court concludes that the prosecutor has rebutted, by clear and convincing evidence, the presumption that an LWOP sentence is disproportionate, see *People v Taylor*, 510 Mich 112, 119-120, 987 NW2d 132 (2022). [*Eads*, ___ Mich at ___; slip op at 18-19 (cleaned up).]

Thus, when the prosecution does not move for LWOP and the trial court accordingly does not consider whether the evidence supports rebutting the presumption that an LWOP sentence is disproportionate, but the trial court nonetheless imposes a term-of-years sentence with a minimum sentence that is so high as to deprive a defendant of a meaningful opportunity to obtain release within their lifetime, the defendant will have essentially been sentenced to LWOP without having received the procedural protections that are required before such a sentence can be imposed. In examining defendant's claim that he received a "de facto life sentence," we therefore consider whether defendant's term-of-years sentence is so long as to deprive him of "a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." *Stovall*, 510 Mich at 320. On plain-error review, we conclude that defendant has not established that his sentence fails to afford him such an opportunity. See *Lillis*, ___ Mich App at ___; slip op at 3.

The trial court imposed a 30-year minimum sentence for first-degree murder, as well as a two-year felony-firearm sentence to be served consecutively to defendant's first-degree murder sentence. Thus, defendant must serve 32 years in prison before he will become eligible for parole.[2] Under the metrics that this Court and our Supreme Court have used as points of reference in considering whether other sentences are de facto life sentences, we cannot say that defendant's sentence qualifies for that label.

In this Court's decision in *People v Eads*, ___ Mich App ___, ___; ___ NW3d ___ (2025) (Docket No. 357332); slip op at 9 (cleaned up), aff'd in relevant part ___ Mich ___ (2026) (Docket No. 168205), we explained that "the United States Sentencing Commission (USSC) defines a life sentence as a period of incarceration of 470 months (approximately 39 years) or more" and referenced a USSC report indicating that an individual in a general prison population has an approximately 64-year life expectancy, although we noted that "this estimate probably overstates the average life expectancy for minors committed to prison for lengthy terms." Drawing upon these references, we proceeded to explain that the defendant's 50- to 75-year sentence for second-degree murder surpassed the 470-month USSC life-sentence definition and the 64-year life expectancy of "an individual who enters prison as an adult, which [the defendant was] not," ultimately deeming the sentence unconstitutional. *Id.* at ___; slip op at 9, 13. Likewise, in *People*

[2] According to the Michigan Department of Corrections website, defendant's current earliest release date is February 20, 2045, at which point he will be 51 years old. See generally MDOC, Offender Tracking Information System <https://mdocweb.state.mi.us/OTIS2/Profile> (accessed August 22, 2026).

v Echols, ___ Mich App ___, ___; ___ NW3d ___ (2025) (Docket No. 370709); slip op at 6-7, this Court found unconstitutional a 75- to 150-year sentence for second-degree murder, reasoning in part that the defendant would "not even become *eligible* for parole for the first time until well past the life expectancy of individuals incarcerated as adults, let alone as youths . . . ." And in our Supreme Court's recent review of the 50- to 75-year sentence for second-degree murder in *Eads*, the Court found "highly pertinent that the 50-year minimum sentence imposed here create[d], at minimum, a good possibility that a youthful offender will not live long enough to even be *eligible* for parole." *Eads*, ___ Mich at ___; slip op at 22-23 (footnote omitted). Moreover, although our Supreme Court declined "to definitively draw a line . . . as to what [it] consider[s] to be a de facto life sentence for the purposes of" our state's Constitution, the Court noted that "[m]any courts in other jurisdictions have concluded that a sentence at around 50 years before parole eligibility is a de facto life sentence," and that some cases have treated sentences imposing a minimum term of more than 40 years for homicide offenses as de facto life sentences. *Id.* at ___ & n 27; slip op at 20-22 & n 27 (citations omitted).

Considering this precedent, defendant has not demonstrated on plain-error review—i.e., that it is "clear or obvious," *Lillis*, ___ Mich App at ___; slip op at 3 (quotation marks and citation omitted)—that his 30- to 70-year sentence, with an additional two-year consecutive term for felony-firearm, deprives him of "a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation" during his lifetime. *Stovall*, 510 Mich at 320. As a general matter, a 30-year minimum sentence falls below the 50-year minimum that many other jurisdictions have deemed to constitute a de facto life sentence, as well as the 40-year-plus threshold that some states have deemed unconstitutional. See *Eads*, ___ Mich at ___ & n 27; slip op at 20-22 & n 27 (citations omitted). And more specifically, unlike the 50- and 75-year minimum terms that the *Eads* and *Echols* defendants respectively faced before becoming eligible for parole, defendant's 30-year minimum term falls below the USSC's life-sentence definition of a 470-month term and makes defendant eligible for parole consideration at the age of 51, more than a decade before the 64-year life expectancy of imprisoned adults.[3] See *id.* at ___; slip op at 6; *Echols*, ___ Mich App at ___; slip op at 7; *Eads*, ___ Mich App at ___; slip op at 9. Furthermore, although defendant's 70-year maximum sentence does exceed life expectancy (as would any 60-year maximum sentence, the lowest maximum that may be imposed under MCL 769.25), defendant has not established that his parole eligibility after 32 years will not afford him "a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." *Stovall*, 510 Mich at 320. Consequently, we disagree with defendant that we should evaluate his constitutional challenge based on the premise that he received a "de facto life sentence."

[3] Defendant's brief states, without citation to the record or authority, that "[i]n Michigan, children sentenced to serve LWOP have an average life expectancy of 50.6 years." Because defendant carries the burden of persuasion and did not develop an adequate record to support this assertion, we cannot credit it for purposes of our legal analysis in this case on plain-error review. We note, however, that defendant was 21 years old (and thus, not a child) when he began serving his sentence, and, although initially sentenced to LWOP, was resentenced to a term of years.

2. *BULLOCK* FACTORS ONE AND TWO

We now turn to apply the four *Bullock* factors to defendant's sentence. As our Supreme Court has considered *Bullock* factors one (the severity of the sentence imposed relative to the gravity of the offense) and two (the sentence imposed compared to sentences imposed in Michigan for other offenses) alongside one another, we likewise consider these factors jointly in the present case. See *Eads*, ___ Mich at ___; slip op at 15, citing *Stovall*, 510 Mich at 314-318. We conclude that, under our current caselaw, defendant has not shown that these factors support a determination that a sentence of 30 to 70 years' imprisonment for first-degree murder committed by a juvenile constitutes cruel or unusual punishment.

At the outset, we emphasize that we are considering here the constitutionality of a sentence for first-degree, rather than a second-degree, murder. Much of the more recent precedent that guides our inquiry concerns sentences for second-degree murder rather than first-degree murder. See *Eads*, ___ Mich at ___; slip op at 2; *Eads*, ___ Mich App at ___; slip op at 13; *Echols*, ___ Mich App at ___; slip op at 7; *Stovall*, 510 Mich at 322. As we have described, a juvenile defendant convicted of first-degree murder may be sentenced to LWOP, but "only if the prosecutor moves to impose such a sentence, the trial court conducts a hearing to consider the *Miller* factors, and, after considering these factors, the trial court concludes that the prosecutor has rebutted, by clear and convincing evidence, the presumption that an LWOP sentence is disproportionate." *Eads*, ___ Mich at ___; slip op at 18 (citations omitted). And a defendant not sentenced to LWOP is otherwise subject to a legislatively mandated minimum term of 25 to 40 years' imprisonment, and a maximum term of at least 60 years' imprisonment. See *Black*, ___ Mich at ___, slip op at 8; MCL 769.25(4), (9). By contrast, a trial court has discretion "to impose a sentence of 'life, or any term of years' " for second-degree murder. *Eads*, ___ Mich at ___; slip op at 16, quoting MCL 750.317. Reviewing sentences for youthful defendants convicted of second-degree murder, this Court and our Supreme Court have found unconstitutional term-of-years sentences of 50 to 75 years and 75 to 150 years, under which the respective defendants would not even become eligible for parole for the first time until they had surpassed "the life expectancy of individuals incarcerated as adults, let alone as youths," *Echols*, ___ Mich App at ___; slip op at 7; *Eads*, ___ Mich at ___; slip op at 2; *Eads*, ___ Mich App at ___; slip op at 13.

Applying this precedent here, defendant has not established that the first two *Bullock* factors weigh in his favor. We begin with the "gravity of the offense." *Eads*, ___ Mich at ___; slip op at 15. Unlike the defendants in *Eads* and *Echols*, defendant was convicted of first-degree murder, which has been described as "almost certainly the gravest and most serious offense that an individual can commit under the laws of Michigan." *Stovall*, 510 Mich at 317 (quotation marks and citation omitted). As for the "severity of the sentence," *Eads*, ___ Mich at ___; slip op at 15, defendant did not receive the most severe sentence for a juvenile convicted of first-degree murder, LWOP, and received instead a 30-year minimum sentence, which defendant acknowledges falls "at the lower end of the 25 to 40 year" statutorily mandated range, and a 70-year maximum sentence, 10 years beyond the 60-year baseline established by our Legislature. Next, we consider "the sentence imposed for the offense compared to sentences imposed in Michigan for other offenses." *Id.* at ___; slip op at 15. Again, unlike the *Eads* and *Echols* defendants whose sentences made them ineligible for parole until they served 50 and 75 years, respectively, for a less serious offense, defendant will become eligible for parole after serving 30 years' imprisonment for first-degree murder and 2 years for felony-firearm, notably before reaching the 64-year life expectancy

of individuals held in the general prison population. That is, in comparison to *Eads* and *Echols*, defendant was sentenced to a lesser minimum term for a graver offense. And although we have not been presented with comprehensive data regarding other sentences imposed on youth for first-degree murder, we think it unlikely that defendant's sentence is all that unusual in comparison, given that the statutory range for a minimum sentence is 25 to 40 years and defendant's minimum sentence is 30 years. In light of these circumstances, we conclude that defendant has not established that the first two *Bullock* factors weigh in his favor.

Before proceeding to address the other *Bullock* factors, we also consider the fact that defendant's maximum term, 70 years, is 10 years longer than the lowest maximum term allowed by statute. See MCL 769.25(9) (providing that the maximum term for a term-of-years sentence for first-degree murder must be "not less than 60 years"). Admittedly, our Supreme Court has expressed concern about second-degree murder sentences that are "likely to render an individual's opportunity for release contingent on the parole board's discretion for that individual's entire lifetime[,]" *Eads*, ___ Mich at ___; slip op at 26, such as the parolable life and 50- to 75-year sentences for second-degree murder deemed respectively unconstitutional in *Stovall* and *Eads*, *id.* at ___; slip op at 2; *Stovall*, 510 Mich at 322. Although any maximum term that exceeds life expectancy (be it 60 or 70 years) carries some risk that the defendant will never be released because such a decision would be within the parole board's discretion, we find *Stovall* and *Eads* distinguishable from the present case. First, as stated, first-degree murder is a graver offense than second-degree murder, which is one consideration under the first two *Bullock* factors. So the concerns about a maximum sentence (or lack of one) that animated the Court's assessments of sentences for second-degree murder in *Stovall* and *Eads* necessarily carry somewhat less weight in this first-degree-murder sentencing case. Additionally, although the parole board's discretion was one aspect of the analysis in *Stovall* and *Eads*, it was considered in the context of a series of policies and procedures that imposed special barriers for those serving parolable life sentences and lengthy minimum terms. The *Stovall* Court, for instance, recognized that parolable lifers, as compared with prisoners serving term-of-years sentences, had less access to "scarce rehabilitative and educational programming" in prison, were given parole consideration less frequently, and were less likely to have their parole guidelines scored. *Stovall*, 510 Mich at 314-315 n 3. And in *Eads*, the Court recognized that prisoners with lengthy minimum sentences were subject to many of the same disadvantages. *Eads*, ___ Mich at ___ & n 32; slip op at 26 & n 32. Thus, the lack of any minimum *or* maximum sentence in *Stovall* and the combination of the 50-year minimum with the 75-year maximum sentence in *Eads* carried weight in those cases that is not present here. Therefore, defendant's 70-year maximum sentence, standing alone or in combination with his 30-year minimum sentence, does not significantly sway the first and second *Bullock* factors in his favor.[4]

[4] Again, we have not been provided data from which to conduct a comparison of the maximum sentence imposed in this case to the maximum sentences imposed in other first-degree murder cases under MCL 769.25, as would seem relevant to an analysis under the first two *Bullock* factors. See *Eads*, ___ Mich at ___; slip op at 15. Therefore, we have no way of knowing whether a 70-year maximum sentence is particularly unusual. We do note, however, this Court's opinion in *People v Belton*, unpublished per curiam opinion of the Court of Appeals, issued April 17, 2026

3. *BULLOCK* FACTOR THREE

Under *Bullock* factor three, we compare the first-degree murder sentence at issue here "with the sentences imposed for the same offense in other jurisdictions." *Id.* at ___; slip op at 27. As with the first and second factors, defendant has not established that this factor weighs in favor of a conclusion that defendant's sentence is cruel or unusual.

Our review of the statutes and caselaw in other jurisdictions does not reveal that Michigan is a significant outlier in allowing a sentence in which a juvenile convicted of first-degree murder must serve 30 years' imprisonment before becoming eligible for parole. From what we can tell, numerous state appellate courts and legislatures have authorized or approved such sentencing schemes.[5] We acknowledge that there are some states that set parole eligibility at an earlier date,[6]

(Docket No. 367648), which held that the defendant failed to establish on plain-error review that his 40- to 70-year sentence for first-degree murder was cruel or unusual. *Belton*, unpub op at 1, 6-8. "Unpublished opinions of this Court are not binding, but may be considered for their persuasive value." *In re Walters*, ___ Mich App ___, ___ n 5; ___ NW3d ___ (2025) (Docket No. 369318); slip op at 6 n 5.

[5] See *State v Lopez*, 174 NH 201, 203, 210; 261 A3d 314 (2021) (upholding a 45-year minimum sentence for a juvenile's first-degree murder conviction); *State v Quevedo*, 947 NW2d 402, 404, 411; 2020 SD 42 (2020) (upholding a 45-year minimum sentence for a juvenile's second-degree murder conviction); *Wilson v State*, 579 P3d 816, 817-818 (Alas App, 2025) (upholding a sentence allowing a juvenile to become eligible for parole after serving 33 years for first-degree murder); *State v Booker*, 656 SW3d 49, 52-53, 68 (Tenn, 2022) (after concluding that a mandatory 51 to 60 years' sentence for felony murder was unconstitutional, remedying that violation with a sentence enabling the defendant to become eligible for parole after serving between 25 to 36 years); *Castaner v State*, 584 P3d 454, 467; 2026 WY 25 (2026) (upholding a juvenile's 42- to 75-year sentence for a second-degree murder); Ariz Rev Stat Ann 13-751(A)(2) (providing that a juvenile convicted of first-degree murder and sentenced to life is eligible for parole only after serving 35 years "if the murdered person was under fifteen years of age or was an unborn child"); 18 Pa Cons Stat 1102.1(a)(1) (stating that an individual who commits first-degree murder at the age of 15 or older must serve at least 35 years before becoming eligible for parole); Ark Code 5-4-104(b) (stating that a juvenile who is convicted of capital murder may become eligible for parole after serving 30 years' imprisonment); Mass Gen Laws ch 279 § 24 (providing various minimum terms ranging from 20 to 30 years' imprisonment for juvenile first-degree murder convictions depending on the form of first-degree murder); *Fletcher v State*, 532 P3d 286, 297 nn 46, 47 (Alas App, 2023) (noting that Georgia, Minnesota, and Montana set parole eligibility for juvenile offenders not sentenced to LWOP at 30 years, and that Colorado and Texas "set parole eligibility for juvenile offenders at 40 years"), citing Ga Code 17-10-6.1(c)(1); Minn Stat 244.05(4)(b); Mont Code 46-23-201(4); Colo Rev Stats 18-1.3-401(4), 17-34-101(II), (III), 17-34-102(3); Tex Gov't Code 508.145.

[6] See, e.g., *Fletcher*, 532 P3d at 296, 296 n 45 (stating that Oregon and West Virginia make juvenile offenders eligible for parole after serving 15 years' imprisonment), citing Or Rev Stat 144.397(1)(a); W Va Code 61-11-23(b); *Taylor II*, ___ Mich at ___; slip op at 28 (explaining that

and without question "there is a clear national trend toward treating juveniles less harshly than adults," *Stovall*, 510 Mich at 318. We also do not intend to suggest that Michigan needs to be an "overwhelming . . . national outlier" under this factor in order for defendant to prevail. See *Parks*, 510 Mich at 264 (holding mandatory life-without-parole sentences unconstitutional for 18-year-olds even though the punishment is still mandatory in 17 states and under federal law). But defendant has not shown that Michigan is significantly out of the mainstream in allowing a 30-year minimum sentence for first-degree murder.[7] This stands in contrast to *Eads*, ___ Mich at ___; slip op at 27-31, and *Stovall*, 510 Mich at 318-320, where it was observed that few jurisdictions allow 50-year minimum sentences or parolable life for juveniles convicted of second-degree murder. Consequently, defendant has not shown that the third *Bullock* factor weighs in favor of a conclusion that defendant's sentence constitutes cruel or unusual punishment.

4. *BULLOCK* FACTOR FOUR

We lastly consider whether a 30- to 70-year sentence for first-degree murder advances the penological goal of rehabilitation. See *Eads*, ___ Mich at ___; slip op at 31. As with the other factors, defendant has not established on the record before us that this fourth factor weighs in favor of a conclusion that his sentence is cruel or unusual.

The inquiry that guides our analysis of this fourth *Bullock* factor is whether a sentence "provides a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation." *Stovall*, 510 Mich at 320 (quotation marks omitted). In *Eads*, the defendant would not have been even *eligible* for parole until a date significantly past life expectancy, so any opportunity to obtain release was more illusory than meaningful or realistic. See *Eads*, ___ Mich at ___; slip op at 22-23. In *Stovall*, along similar lines, although the defendant was parolable "in theory," the Court recognized that his opportunity to obtain release was significantly diminished because "parolable life sentences are given lower priority when it comes to educational and rehabilitative programming" as compared to prisoners with term-of-years sentences.[8] *Stovall*, 510 Mich at 320 (commenting that "[a]ccess to these programs is vital"). By contrast, in this case defendant has a term-of-years sentence and will be given an opportunity to seek release from the parole board at the age of 51. As previously discussed, defendant has not established that this exceeds his life expectancy. Nor is it "clear or obvious," *Lillis*, ___ Mich App at ___; slip op at 3 (quotation marks and citation omitted)—our standard on plain-error review—that defendant is

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Illinois sets parole eligibility for most youthful offenders serving a sentence for first-degree murder at 20 years), citing 730 Ill Comp Stat 5/5-4.5-115(b).

[7] This situation could change in the future. "Determining what constitutes cruel or unusual punishment is guided by evolving standards of decency that mark the progress of a maturing society. . . . Inherent in this standard is the understanding that as society progresses, punishments that were once acceptable can later be considered cruel or unusual." *Taylor II*, ___ Mich at ___; slip op at 7-8 (quotation marks and citations omitted). Therefore, if other jurisdictions move in the direction of requiring earlier parole eligibility for youth, the third *Bullock* factor would weigh more in favor defendant's sentence being deemed unconstitutional under Const 1963, art 1, § 16.

[8] Parolable lifers faced other barriers to being meaningfully considered for release on parole that prisoners serving term-of-years sentences did not face. See *Stovall*, 510 Mich at 314-315 n 3.

likely to be deprived of access to educational or rehabilitative programming or otherwise face unfair barriers to demonstrating maturity and rehabilitation when the time comes for parole consideration.[9] Hence, defendant has not shown, on the record before us, that his sentence fails to provide him with a meaningful opportunity for release based on demonstrated maturity or rehabilitation. See *Stovall*, 510 Mich at 320.

We acknowledge that defendant's mere eligibility for parole is not a guarantee of release, and his maximum sentence of 70 years—after which he must be released—likely exceeds his life expectancy. But we do not understand a proper analysis of the fourth *Bullock* factor to turn primarily on whether a sentence guarantees release, only on whether it advances the goal of rehabilitation by promoting a meaningful opportunity for release upon demonstration that rehabilitation has been achieved. See *id.* Unlike a life sentence or 50-year minimum sentence, a 30-year minimum sentence incentivizes rehabilitation so that defendant can one day demonstrate suitability for release. Cf. *Graham v Florida*, 560 US 48, 79; 130 S Ct 2011; 176 L Ed 2d 825 (2010) ("A young person who knows that he or she has no chance to leave prison before life's end has little incentive to become a responsible individual."); MCL 791.233(1)(a) ("A prisoner must not be given liberty on parole until the board has reasonable assurance, after consideration of all of the facts and circumstances, including the prisoner's mental and social attitude, that the prisoner will not become a menace to society or to the public safety."). Nothing in the record indicates that defendant will not have a meaningful opportunity for release within his lifetime if he takes advantage of programming opportunities and demonstrates maturity and rehabilitation when the time comes for parole consideration. Accordingly, defendant has not demonstrated under the fourth *Bullock* factor that his sentence fails to advance the penological goal of rehabilitation. See *Eads*, ___ Mich at ___; slip op at 31.

III. CONCLUSION

To summarize, we conclude that the trial court did not abuse its discretion by failing to consider defendant's youth as mitigating in fashioning defendant's sentence. We further conclude that defendant has not demonstrated that the trial court committed plain error under Const 1963, art 1, § 16 by imposing a 30- to 70-year sentence for defendant's first-degree murder conviction. The judgment of the trial court is therefore affirmed.

/s/ Randy J. Wallace
/s/ Daniel S. Korobkin

[9] To the contrary, defendant submitted a "mitigation report" in preparation for resentencing which states that a term-of-years sentence would provide him access to more programming.