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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED November 25, 2026 9:40 AM
v	No. 374439 Oakland Circuit Court
LAMONT BERNARD HEARD, Defendant-Appellant.	LC No. 1998-163897-FC

Before: MURRAY, P.J., and PATEL and FEENEY, JJ.

PER CURIAM.

Defendant appeals as of right the trial court's resentencing order, where the court sentenced defendant to serve 38 to 60 years in prison for his first-degree murder and conspiracy to commit first-degree murder convictions. We affirm.

I. FACTS

This Court previously affirmed defendant's convictions and sentences for: (1) one count of first-degree premeditated murder, MCL 750.316; (2) one count of conspiracy to commit first-degree murder, MCL 750.157a; and (3) two counts of possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. *People v Heard*, unpublished per curiam opinion of the Court of Appeals, issued June 28, 2002 (Docket No. 221827), p 2 (*Heard I*). When defendant first appealed, this Court summarized the facts—regarding defendant and his codefendants Kevin Tyran Harris, Bobby Wayne Smith, and Antwan Lamont Williams—as follows:

> All the convictions stem from the shooting death of Lonnie Adams. The victim, a resident of Ypsilanti, came to Pontiac on August 30, 1995. According to his grandmother, Adams was there to visit family. Sometime around midnight that night, several people in the neighborhood heard gunshots. Several eyewitnesses testified at trial that, after having heard the volley of gunshots, they saw four men in dark clothing standing around Adams' body. Two witnesses testified that they believed they saw shots fired at the victim as he lay on the ground. One eyewitness testified that she saw four men chasing and shooting at Adams. According to this

witness, one of the four exclaimed, "You trying to rob me. I've got something for your ass."

Some of the most dramatic testimony was offered by a minor. Almost thirteen years old at the time of the shooting and seventeen years old as of trial, this witness testified that she saw Adams pounding and screaming at the door of her residence. This witness saw three men chase and shoot Adams after he left her residence. The witness identified one of the three shooters as Terry Cooley, who had died as of trial . . . . [T]he witness identified defendants Heard and Smith as the other two men she saw chase and shoot Adams.

Dion Coleman testified that he and the four defendants were members of a street gang known as Project Posse. Coleman testified that Adams and defendant Williams got into an argument while at a dice game on the night of the shooting. Coleman testified that after Adams left the game, the four defendants and Antoine McNeal engaged in a conversation during which they discussed killing Adams. According to Coleman, he and McNeal declined to go along with the murder. McNeal also testified that while he and Coleman were present when the murder was being planned, he and Coleman backed out. Coleman further testified that he saw the four defendants later that evening dressed in black and carrying a variety of weapons. According to Coleman, the men left with Cooley, traveling in a group of three and a group of two. McNeal testified that he witnessed the five men chasing Adams, and saw sparks fly from the group as they chased the victim.

According to McNeal, Smith later told him that the four defendants and Cooley had killed Adams. Coleman testified that Smith also admitted his involvement in the murder. According to Coleman, the day after the murder, he, the four defendants, Cooley, and McNeal, met and agreed to keep quiet. Coleman indicated he at first kept the agreement, even going so far as to lie about the incident to the police and in another proceeding held in the district court. Coleman admitted on cross-examination that the police had told him that he could be charged with the murder if he continued to be uncooperative.

Shelia Scott, defendant Heard's girlfriend, testified that she was present when the four defendants, McNeal and Cooley met up before the murder at Heard's station wagon. Heard and Harris gave her some unidentified personal items to hold, and Williams gave her a bike. The men then ran off, the hoods of their sweaters over their heads. At some later point in time, Scott witnessed the four defendants and Cooley chasing the victim. Soon thereafter, she heard the sound of gunshots. Heard then returned to his car, and the two drove to a liquor store. According to Scott, while the two were at the store, Heard stated the men had killed Adams. Later, Heard explained to Scott that Adams "was going to stick them up so they had to get him before he got them." [*Id*. at 2-3.]

But in 2024, a panel of this Court reversed and remanded to the trial court "to consider whether defendant's sentence of life without the possibility of parole is still the appropriate sentence under the standards set forth in MCL 769.25" because he was 18 years old when he

committed these crimes. *People v Heard*, unpublished per curiam opinion of the Court of Appeals, issued February 8, 2024 (Docket No. 355536), p 4 (*Heard II*).

On remand, the parties stipulated that "term-of-years sentences must be imposed in place of defendant's unconstitutional mandatory life-without-parole sentences." At the resentencing hearing, the parties made formal allocutions, defendant provided a personal statement, and two people presented victim impact statements. Additionally, the trial court noted that it had received and reviewed the parties' sentencing memorandums as well as defendant's presentence investigation report (PSIR). The court referenced the *Miller*[1] and *Snow*[2] factors stating, "I certainly recognize that under the law the defendant's youth is a mitigating factor here. I'm certainly very aware of that." After a lengthy analysis, spanning 11 transcript pages, the trial court resentenced defendant to serve 38 to 60 years in prison for his first-degree murder and conspiracy convictions.

Thereafter, defendant moved the trial court for resentencing and an evidentiary hearing, which the trial court denied. Defendant then moved this Court to remand for many of the same reasons, which this Court also denied. *People v Heard*, unpublished order of the Court of Appeals, entered March 23, 2026 (Docket No. 374439). Defendant now appeals, arguing once again that he is entitled to resentencing.

II. SENTENCING

On appeal, defendant argues that he is entitled to resentencing for a variety of reasons, each of which will be discussed, and dismissed, in turn.

A. STANDARD OF REVIEW

"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*. "A trial court abuses its discretion by violating the 'principle of proportionality,' which requires that a sentence be proportionate to the seriousness of the offense and the circumstances of the offender." *People v Brcic*, ___ Mich App ___, ___; ___ NW3d ___ (2026) (Docket Nos. 362727; 366230); slip op at 10 (citations omitted). "This review, a 'reasonableness' review, applies to both sentences within and outside the guidelines." *Id*. "Claims alleging a violation of constitutional due process are reviewed de novo," *People v Dixon-Bey*, 340 Mich App 292, 296; 985 NW2d 904 (2022), including "[w]hether a defendant's sentence constitutes cruel and/or unusual punishment under the Eighth Amendment of the United States Constitution or Article 1, § 16 of the Michigan Constitution," *People v Stovall*, 510 Mich 301, 312; 987 NW2d 85 (2022).

B. LEGAL STANDARDS

[1] *Miller v Alabama*, 567 US 460; 132 S Ct 2455; 183 L Ed 2d 407 (2012).

[2] *People v Snow*, 386 Mich 586; 194 NW2d 314 (1972).

"Where the Legislature has assigned a range of sentencing outcomes for any given conviction, the trial court has authority to sentence a defendant within that range." *Boykin*, 510 Mich at 183. The trial court must "exercise discretion in a way that ensures the individualized sentence conforms with the principle of proportionality." *Id*. The statutory sentencing range for first-degree premeditated murder and conspiracy to commit first-degree murder is "imprisonment for life without eligibility for parole[.]" MCL 750.316(1)(a); see MCL 750.157a(a). But juveniles previously sentenced to life without parole may be resentenced "to a term of imprisonment for which the maximum term shall be not less than 60 years and the minimum term shall be not less than 25 years or more than 40 years." See MCL 769.25(9). Accordingly, defendant's 38-to-60-years' sentences fall within the statutory guidelines. See MCL 769.25(9).

The "basic considerations" relevant to determining an appropriate sentence are as follows: "(a) the reformation of the offender, (b) protection of society, (c) the disciplining of the wrongdoer, and (d) the deterrence of others from committing like offenses." *People v Snow*, 386 Mich 586, 592; 194 NW2d 314 (1972). Sentences may not violate "the 'principle of proportionality,' which requires that a sentence be proportionate to the seriousness of the offense and the circumstances of the offender." *Brcic*, ___ Mich App at ___; slip op at 10 (citations omitted). The test for proportionality requires consideration of the following: "(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, which is a criterion specifically rooted in Michigan's legal traditions." *People v Kardasz*, ___ Mich ___, ___; ___ NW3d ___ (2025) (Docket No. 165008); slip op at 33 (quotation marks and citation omitted).

The reasonableness review "applies to both sentences within and outside the guidelines." *Brcic*, ___ Mich App at ___; slip op at 10. "The sentencing guidelines are only advisory; however, those guidelines remain a highly relevant consideration in a trial court's exercise of sentencing discretion." *Id*. (quotation marks and citation omitted). "A within-guidelines sentence carries a rebuttable presumption of proportionality." *Id*. "The defendant bears the burden of demonstrating that their within-guidelines sentence is unreasonable or disproportionate." *Id*. (quotation marks and citation omitted). "A defendant may overcome the presumptive proportionality of a within-guidelines sentence by presenting unusual circumstances that would render the presumptively proportionate sentence disproportionate." *Id*. (quotation marks and citation omitted).

In *Miller v Alabama*, 567 US 460, 465; 132 S Ct 2455; 183 L Ed 2d 407 (2012), the United States Supreme Court concluded that a mandatory sentence of life without parole (LWOP) for a defendant who was under the age of 18 at the time of the crime violated the Eighth Amendment's prohibition against cruel and unusual punishment. In *People v Taylor*, 510 Mich 112, 126; 987 NW2d 132 (2022), our Supreme Court summarized the United States Supreme Court's holding in *Miller* as follows:

> [In *Miller*, 567 US 460,] the Supreme Court held that the Eighth Amendment prohibits mandatory LWOP sentences for crimes committed when the offender was under 18 years old. Mandatory LWOP penalty schemes "preclude a sentencer from taking account of an offender's age and the wealth of characteristics and circumstances attendant to it." *Id*. at 476. This "poses too great a risk of

> disproportionate punishment." *Id*. at 479. "In imposing a State's harshest penalties, a sentencer misses too much if he treats every child as an adult." *Id*. at 477.
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> The Supreme Court set forth circumstances that a trial court should consider before concluding that it is appropriate to sentence a juvenile offender to die in prison. *Id*. at 477-478. Those "*Miller* factors" are: (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." *Id*.

Miller did not "foreclose a sentencer's ability" to impose a life sentence without parole for "the rare juvenile offender whose crime reflects irreparable corruption," but when the young offender's "diminished culpability and heightened capacity for change" were properly considered, "appropriate occasions for sentencing juveniles to this harshest possible penalty will be uncommon." *Parks*, 510 Mich at 239-240 (quotation marks and citation omitted).

MCL 769.25a applies the *Miller* principles retroactively. See *Parks*, 510 Mich at 239-240. And the Michigan Supreme Court has extended these safeguards to defendants who were 18 years old at the time they committed first-degree murder. *Id*. at 244. In *Boykin*, 510 Mich at 188-189, our Supreme Court held that a trial court's "consideration of youth and its attendant circumstances is also required by this state's sentencing jurisprudence" when a defendant is sentenced to a term of years under MCL 769.25 and MCL 769.25a. The Court explained how the four considerations stated in *Snow*, 386 Mich at 592, are especially relevant for young offenders, who have good potential for reformation. *Boykin*, 510 Mich at 188-189. That said, a sentencing court's consideration of those factors "need not be articulated on the record." *Id*. at 193-194. Indeed, "there are no magic words or phrases that a trial court must use to show that it adequately considered the mitigating qualities of youth within *Snow*'s sentencing criteria," and the sentencing court need only "make a record demonstrating that [it] considered the defendant's youth and treated it as a mitigating factor" in a way that is "sufficient to facilitate appellate review." *People v Copeland*, 350 Mich App 577, 587, 602; 34 NW3d 9 (2024).

C. YOUTH AS A MITIGATING FACTOR

Defendant first argues that the trial court failed to properly consider his youth as a mitigating factor. We disagree.

To the extent that defendant suggests the trial court, in imposing its term-of-years sentence, was required to make specific findings on the record regarding its consideration of the mitigating qualities of youth and each of the *Snow* factors, caselaw from this Court and our Supreme Court

holds otherwise.[3] See *Boykin*, 510 Mich at 193-194; *Copeland*, 350 Mich App at 587 n 2. All that was required of the court was an explanation sufficient to facilitate appellate review of the sentence and its proportionality. *Boykin*, 510 Mich at 193-194; *Copeland*, 350 Mich App at 587, 602. The record in this case is sufficient to facilitate such review and makes clear that the trial court properly considered defendant's youth in light of *Miller* and *Snow* when fashioning a sentence that was duly proportionate to the offense and the offender.

On remand, the trial court explicitly listed the *Miller* factors, stating that those factors were addressed in the parties' sentencing memorandums and defendant's PSIR. The court also referenced the *Snow* factors and stated, "I certainly recognize that under the law the defendant's youth is a mitigating factor here. I'm certainly very aware of that." Nevertheless, the trial court ultimately found that although defendant was 18 years old at the time of the murder, his role in the offense was "significant." The court explained that this was not a case where peer pressure influenced defendant; instead, he had a leadership role in the murder. That consideration was proper under *Miller*. See *Taylor*, 510 Mich at 126, quoting *Miller*, 567 US at 477 (listing one of the *Miller* factors 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' ").

Contrary to defendant's assertions otherwise, evidence presented at defendant's jury trial established that he was a leader in the victim's murder. As previously explained, although Coleman and McNeal were present when the murder was planned, they ultimately declined to participate in the act. *Heard I*, unpub op at 3. McNeal testified that on the night of the murder, he witnessed the victim and Williams, one of defendant's codefendants, get into a verbal argument at a dice game. After the victim left, McNeal saw defendant walking by the dice game "looking kind of crazed," so he "pulled [defendant] to the side and [they] got to talking." Defendant began talking about the victim, stating that "he was fed up with the bullshit that was going on in the hood." Defendant then said, "what's up[?] Are you with me[?] We going to kill him." Defendant similarly told Coleman that "[h]e was tired of people trying to stick him up," so "he was going to kill [the victim]." Therefore, defendant recruited others to participate in the murder, and even after two people backed out of the plan, defendant decided to move forward with it. Additionally, defendant and his codefendants met up at defendant's vehicle before the murder, and they gave defendant's girlfriend items to hold while they killed the victim.[4] *Id*.

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[3] According to defendant, "Judge Matis' statements during [defendant's] resentencing indicate that he did not find that [defendant's] age made the murder less harsh, hostile, severe, or painful; nor did [defendant's] age make [defendant's] actions easier to understand or excuse in Judge Matis' eyes." We find no support for the proposition that a trial court must make any of these specific findings on the record.

[4] Defendant also takes issue with the trial court's statement that he "carried out the murder" because he was not the fatal shooter. The record is clear that: (1) defendant possessed a sawed-off shotgun; and (2) the victim died of multiple gunshot wounds, but there were "additional injuries in the form of shotgun wounds" on his hand and face. But even if the ammunition in defendant's shotgun did not cause the victim's death, that does not negate the fact that defendant acted as a

The trial court also extensively considered defendant's reformation and possibility of rehabilitation in relation to the protection of society. See *Snow*, 386 Mich at 592 (listing two of the *Snow* factors as "the reformation of the offender" and the "protection of society"); *Taylor*, 510 Mich at 126, quoting *Miller*, 567 US at 478 (listing one of the *Miller* factors as "the juvenile's 'possibility of rehabilitation' "). The trial court examined defendant's juvenile and adult criminal record, noting the "concerning" fact that two weeks after the victim was murdered in this case, defendant committed a manufacturing and delivery of a controlled substance offense. After listing defendant's criminal history, the court stated, "That's a repetition of really dangerous conduct that causes danger to the community." The court also noted defendant's prison-behavior record, stating that his prison misconducts were "spread over time," as opposed to only being committed when he was first incarcerated. Notably, when analyzing these considerations, the court also acknowledged "favorable things," such as the programs that defendant had been involved in while imprisoned.

The court also stated that it "certainly considered everything in the [PSIR], which goes into detail about his family background, upbringing, circumstances of the offense." See *Taylor*, 510 Mich at 126, citing *Miller*, 567 US at 477 (listing one of the *Miller* factors as "the juvenile's family and home environment").

These considerations and explanations by the trial court were sufficient to facilitate appellate review, making clear that the trial court duly considered defendant's youth and its attendant characteristics as mitigating, in light of *Miller* and *Snow*, and properly incorporated that consideration into its determination of a proportionate sentence for this offense and offender. See *Boykin*, 510 Mich at 193-194; *Copeland*, 350 Mich App at 587, 602. Even considering defendant's youth as a mitigating factor, the court ultimately determined that the circumstances of the offense, defendant's role in the offense, and defendant's criminal history and behavior in both the years prior and the years subsequent to the offense were severe and concerning enough to warrant a within-the-guidelines sentence of 38 to 60 years' imprisonment. Defendant has not demonstrated that he is entitled to sentencing relief on this basis.

D. INACCURATE INFORMATION

Defendant further argues that his sentence is erroneous because it is based on inaccurate information. We disagree.

A defendant is entitled to be sentenced by a trial court based on accurate information. *People v McGraw*, 484 Mich 120, 131; 771 NW2d 655 (2009). A defendant is also entitled to have challenged, inaccurate information stricken from the PSIR. *People v Waclawski*, 286 Mich App 634, 690; 780 NW2d 321 (2009).

As an initial matter, the trial court gave defendant the opportunity to challenge information in his PSIR at the resentencing hearing. Indeed, the trial court granted three of defendant's requests to change his PSIR, and when denying defendant's two other requests, the trial court stated that

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leader in this offense and shot at the victim with the intent to kill him. Accordingly, the trial court's statement that defendant "carried out the murder" was accurate.

defendant could indicate his objections to both during the hearing. After the trial court handled those requests, defense counsel stated that he did not have any further changes, additions, deletions, or corrections to report. Defendant later raised these challenges in his motion for resentencing and motion to remand.

1. THE VICTIM'S REASON TO VISIT PONTIAC

Defendant first argues that the trial court's finding that the victim only came to Pontiac, Michigan to visit his mother was inaccurate because the PSIR stated that he came to rob various people. We disagree.

At resentencing, the trial court stated that the victim "came to visit his mother who was terminally ill with cancer . . . ." The PSIR states that the victim's grandmother and great-nephew both reported that the victim was in Pontiac to visit family. The victim's grandmother specifically reported that the victim came to Pontiac to visit his mother who was terminally ill with cancer. In making this argument, defendant relies on a separate statement in the PSIR, which states that a man named Keith Rouser learned "[t]hrough his son, who learned information 'on the streets' " that the victim came to Pontiac "to visit his ailing mother," but while in Pontiac, the victim "made an agreement to rob 'local dope sellers' by luring them to an isolated spot." Even if the entirety of Rouser's statement were true, it does not contradict the trial court's statement that the victim "came to visit his mother who was terminally ill with cancer . . . ." Accordingly, there is no inaccuracy, and defendant has not demonstrated that he is entitled to sentencing relief on this basis.

2. THE VICTIM'S THREATS

Defendant further argues that the trial court considered the prosecutor's inaccurate claim that the victim did not threaten anyone on the night of his murder. We disagree.

At resentencing, the prosecutor stated as follows: "By all accounts, Judge, according to all of the transcripts[, the victim] was not armed.[5] He was not fighting with anyone that day. He didn't threaten anyone that day." Defendant argues that this statement was inaccurate because McNeal testified that the victim's argument with codefendant Williams was about the fact that the victim was going to rob Williams. Regardless of the accuracy of that statement, the trial court did not make any reference, or seem to give any consideration, to whether the victim threatened anyone on the night of the murder. In fact, the court noted that it reviewed the case file and PSIR, both of which included McNeal's claims. Accordingly, defendant has not demonstrated that he is entitled to sentencing relief on this basis.

3. SPITTING ON THE VICTIM

Defendant further argues that the trial court accepted as true the prosecutor's inaccurate statement that defendant spat on the victim's lifeless body. We disagree.

[5] Multiple witnesses testified that the victim appeared to be unarmed on the night of his murder.

At resentencing, the prosecutor stated multiple times that after the victim was killed, "they stood over his body and spit on him." Defense counsel argued that there was nothing in the record stating that defendant spit on the victim. Again, regardless of the accuracy of that statement, the trial court did not make any reference, or seem to give any consideration, to whether defendant spat on the victim. Nevertheless, there is evidence in the record supporting the prosecutor's argument: at trial, Alisha Scruggs testified that she saw three men—including defendant—chase and shoot the victim and then "[i]t appeared that they spit on him."[6] Accordingly, defendant has not demonstrated that he is entitled to sentencing relief on this basis.

4. DEFENDANT'S REHABILITATION STATUS

Defendant further argues that the trial court's finding that defendant is not rehabilitated was based upon inaccurate information. We disagree.

Defendant does not reference any alleged inaccurate information in this regard; instead, he argues that the trial court simply gave improper weight to the information in his favor. But as previously stated, when sentencing defendant, the trial court extensively considered his reformation and possibility of rehabilitation. In doing so, the court examined defendant's criminal history and prison-behavior record *as well as* "favorable things," such as the programs that defendant had been involved in while imprisoned. Accordingly, there is no inaccuracy or abuse of discretion, and defendant has not demonstrated that he is entitled to sentencing relief on this basis.

5. COMPAS TESTING

Defendant further argues that the trial court relied upon inaccurate information in the PSIR concerning his COMPAS test results.[7] We disagree.

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[6] Defendant's claim relies solely on Scruggs's grand jury testimony, which was not presented to the trial jury. He entirely ignores her trial testimony.

[7] This Court has previously explained the "COMPAS" risk assessment tool as follows:

> COMPAS, the acronym referred to in the TAP guidelines, stands for the correctional offender management profiling for alternative sanctions program. COMPAS is a comprehensive risk and needs assessment system, which takes into account both static information (such as the prisoner's past criminal offenses) and dynamic data (such as the prisoner's evolving attitudes and mental condition). COMPAS is designed to support treatment, programming and case management decisions. The various COMPAS reports describe the offender's risk and criminogenic needs. The fundamental task is to connect the dots among the various factors and develop a more integrated and coherent interpretation of each persons [sic] support needs.
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> In conducting a COMPAS risk assessment, a case manager considers various characteristics of the offender and the offense and inputs scores into the COMPAS computer software program. The software generates a score ranking the

Defendant's PSIR COMPAS narrative stated as follows:

> It should be noted the defendant was screened as having a potential faking concern. The program explains, "The current Lie Text is designed to identify respondents who give unreasonable or extreme answers to the items below. Respondents who give 3 or more extreme answers to these items are flagged as possibly lying or distorting their answers." He presents with several needs; these shall be addressed during his incarceration.

Defendant argues that this information was inaccurate because there was no evidence that he gave potential fake answers. This argument lacks merit because as the PSIR stated: " 'The current Lie Text is designed to identify respondents who give *unreasonable or extreme answers* to the items below. Respondents who give 3 or more *extreme answers* to these items are flagged as *possibly lying or distorting* their answers.' " (Emphasis added.) Accordingly, the evidence reflects that defendant gave three or more *unreasonable or extreme answers*, which identified that he may have "a potential faking concern." Defendant's disagreement with the COMPAS results does not render the PSIR's summary of them inaccurate. Accordingly, defendant has not demonstrated that he is entitled to sentencing relief on this basis.

6. "STREET JUSTICE"

Defendant further argues that the trial court improperly considered the prosecutor's "fabricated claim" that defendant stated that the victim's death was the result of "street justice." We disagree.

During her allocution, the prosecutor noted that although defendant appeared to take responsibility for his actions during his statement at the resentencing hearing, he had recently undergone a psychological evaluation in preparation for that hearing, and at that evaluation, he had referred to the events of this case as "street justice."[8] Accordingly, the prosecutor believed that

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> offender's statistical likelihood of violence, recidivism, success on parole, and other factors. The COMPAS program incorporates information gleaned from the offender's prior criminal history, drug involvement, early indicators of juvenile delinquent problems, and criminal associations to assess a general recidivism risk. The prisoner's history of violent or assaultive crimes, prior use of weapons, past parole experience, and other similar factors contribute to the prisoner's violent recidivism risk. COMPAS also assesses more benign factors such as the level of the prisoner's family support and the prisoner's ability to gain employment, manage his or her finances, and find suitable housing once paroled. [*In re Elias*, 294 Mich App 507, 520-521; 811 NW2d 541 (2011) (quotation marks and citations omitted).]

[8] The part of the psychological report that the prosecutor was referring to states as follows:

> When the examiner provided the description indicated in the records, [defendant] said that in a nutshell those were basic true facts of the offense. However, he said there were also many details and dynamics left out. He further

defendant's remorsefulness and apologies were disingenuous. Defense counsel responded, arguing that defendant did not use the term "street justice" to explain away his conduct; instead, it was used to frame who he was at 18 years old and "what he and the society around him believed was right." Accordingly, both parties provided the trial court with their interpretation of the statement. Moreover, the trial court did not make any reference, or seem to give any consideration, to defendant's use of the term "street justice." There was no inaccuracy; the parties simply made equal arguments providing reasonable inferences that could be made from the evidence. Accordingly, defendant has not demonstrated that he is entitled to sentencing relief on this basis.

E. CRUEL OR UNUSUAL PUNISHMENT

Defendant further argues that his sentence constitutes cruel or unusual punishment because it amounts to a de facto life sentence. We disagree.

The United States Constitution prohibits "cruel and unusual" punishments, US Const, Am VIII, and the Michigan Constitution prohibits "cruel or unusual punishment," Const 1963, art 1, § 16. Accordingly, the Michigan Constitution's punishment provision "is broader than the federal Eighth Amendment counterpart." *People v Parks*, 510 Mich 225, 241; 987 NW2d 161 (2022).

In assessing whether a punishment is cruel or unusual, Michigan courts have consistently considered the following factors, frequently referred to as the *Bullock*[9] 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, which is a criterion specifically rooted in Michigan's legal traditions." *Kardasz*, ___ Mich at ___; slip op at 33 (quotation marks and citation omitted).

In making this argument, defendant only addresses the first *Bullock* factor: "the severity of the sentence relative to the gravity of the offense."[10] *Id*. He argues that defendant's sentence is an unconstitutional de facto life sentence because he will likely die in prison before becoming eligible for parole. Defendant relies on *People v Eads*, ___ Mich App ___, ___; ___ NW3d ___ (2025) (Docket No. 357332); slip op at 1-2, 13, vacated in part *People v Eads*, ___ Mich ___, ___; ___ NW3d ___ (2026) (Docket No. 168205), but *Eads* is distinguishable from this case because it dealt with a sentence for second-degree murder, and this case concerns a sentence for first-degree murder.

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explained that this was a situation of a "crime that is neighborhood related." He explained that in a housing project where he lived, they would often refer themselves as "a city within a city." As a result, when there were conflicts or problematic dynamics, the individuals in the neighborhood would often address issues with what could be called street justice.

[9] *People v Bullock*, 440 Mich 15, 33-35; 485 NW2d 866 (1992).

[10] Accordingly, we decline to address the other *Bullock* factors. See *People v Iannucci*, 314 Mich App 542, 545; 887 NW2d 817 (2016) ("The failure to brief the merits of an allegation of error constitutes an abandonment of the issue") (quotation marks and citation omitted).

Defendant's new sentence for first-degree murder—38 to 60 years' imprisonment—falls squarely within the statutory minimum range of 25 to 40 years and statutory maximum range of not less than 60 years. See MCL 769.25(9). "A within-guidelines sentence carries a rebuttable presumption of proportionality." *Brcic*, ___ Mich App at ___; slip op at 10. Moreover, defendant's argument fails to recognize that an 18-year-old offender convicted of first-degree murder can still be sentenced to life without parole if the prosecutor: (1) files a motion for resentencing requesting the trial court to impose that sentence, MCL 769.25a(4)(b); and (2) meets their burden of overcoming the presumption that such a sentence is disproportionate under the governing caselaw, see *Parks*, 510 Mich at 239-240. Defendant has failed to present unusual circumstances that would render this presumptively proportionate sentence disproportionate. See *Brcic*, ___ Mich App at ___; slip op at 10. "There can be no dispute that any form of murder is one of the most severe and heinous crimes that a person can commit in any jurisdiction, and first-degree murder is particularly heinous." *Parks*, 510 Mich at 256. And in this case, defendant acted as a leader in the victim's murder.

Accordingly, defendant's sentence was not unconstitutionally cruel or unusual. Instead, it was "proportionate to the seriousness of the offense and the circumstances of the offender. *Brcic*, ___ Mich App at ___; slip op at 10.

F. CONSPIRACY SENTENCE

Defendant further argues that the trial court abused its discretion by imposing the same sentence for his first-degree murder and conspiracy convictions because he was entitled to a lower sentence on his conspiracy conviction. We disagree.

As an initial matter, at resentencing, the trial court specifically asked defense counsel if he was requesting that defendant be sentenced to the same terms of imprisonment for his first-degree murder and conspiracy convictions, and defense counsel responded affirmatively. By affirmatively stating the opposite of what defendant now argues, defendant has waived this issue. See *People v Wade*, ___ Mich App ___, ___; ___ NW3d ___ (2025) (Docket No. 369106); slip op at 4 ("Waiver is the intentional relinquishment of a known right"). Nevertheless, even if defendant had not waived this issue, it lacks merit.

The statutory sentencing range for first-degree premeditated murder is "imprisonment for life without eligibility for parole," MCL 750.316(1)(a), but juveniles previously sentenced to life without parole may be resentenced "to a term of imprisonment for which the maximum term shall be not less than 60 years and the minimum term shall be not less than 25 years or more than 40 years," MCL 769.25(9). The sentencing range for conspiracy to commit an offense is dependent on the severity of that offense. See MCL 750.157a. In this case, MCL 750.157a(a) applies, which states:

> [I]f commission of the offense prohibited by law is punishable by imprisonment for 1 year or more, the person convicted under this section shall be punished by a penalty equal to that which could be imposed if he had been convicted of committing the crime he conspired to commit . . . .

Accordingly, the trial court did not err by imposing the same sentence for defendant's first-degree murder and conspiracy convictions. See MCL 750.157a(a).

G. CONSIDERATION OF CODEFENDANT'S SENTENCE

Defendant further argues that the trial court abused its discretion by refusing to consider his codefendant's 25-year minimum sentence. We disagree.

The trial court acknowledged the codefendant's lesser sentence at resentencing:

> I do want to touch on the—the issue—it was in the defense brief, and actually the prosecutor mentioned it. There's an argument by defense here that the sentence received by a co-conspirator supports the Court—this Court giving a 25 to 60—60 year sentence, because that's apparently what the co-defendant received. A few things on that. One, I think in general the law as I believe it to be says that I am to individualize a sentence in each case. I'm not supposed to just say, you know, everybody who commits X crime gets the same thing. You're supposed to look at each case. The facts and circumstances are different. People are different individuals. Some people have long criminal histories, some don't. There are advisory guidelines and they're—they're different for each case, depending on the circumstances of each case. The criminal history, the offense itself.

The trial court was correct that a defendant's "sentence should be tailored to the particular circumstances of the case and the offender in an effort to balance both society's need for protection and its interest in maximizing the offender's rehabilitative potential." *People v McFarlin*, 389 Mich 557, 574; 208 NW2d 504 (1973). "Individualized sentencing furthers the goal of rehabilitation by respecting the inherent dignity of each person the law deprives of freedom, civil rights, or property." *People v Heller*, 316 Mich App 314, 318; 891 NW2d 541 (2016). The trial court is not required to take a codefendant's sentence into consideration when sentencing a defendant. *People v Bisogni*, 132 Mich App 244, 245-246; 347 NW2d 739 (1984). Nevertheless, the trial court acknowledged the codefendant's lesser sentence, stating that it needed to individualize defendant's sentence because the facts and circumstances were different between defendant's and codefendant's criminal histories and roles in the offense. The trial court properly tailored the sentence to defendant in this case, especially considering that the codefendant was convicted of second-degree murder, and defendant was convicted of first degree-murder. See *Heard I*, unpub op at 1.

H. JAIL CREDIT

Defendant lastly argues that he is entitled to have 313 more days credited toward his sentence. We disagree.

Defendant cursorily states that before defendant was convicted, he served 313 days in jail; therefore, he is entitled to have those additional days credited toward his sentence. But at resentencing, defense counsel stated that he agreed with defendant's jail credit assignment of 8,818 days for the first-degree murder and conspiracy convictions and 730 days for the felony-firearm convictions. By agreeing to defendant's jail credit assignment at resentencing, defendant has waived this issue. See *Wade*, ___ Mich App at ___; slip op at 4. Nevertheless, even if defendant

had not waived this issue, he fails to explain how he arrived at the calculation of 313 additional days when defendant's PSIR clearly shows that defendant's jail credit was calculated from the day of his arrest. "An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims, nor may he give only cursory treatment with little or no citation of supporting authority." *People v Iannucci*, 314 Mich App 542, 545; 887 NW2d 817 (2016) (quotation marks and citation omitted). "The failure to brief the merits of an allegation of error constitutes an abandonment of the issue." *Id*. (quotation marks and citation omitted). Accordingly, we decline to address this argument. See *id*.

Affirmed.

/s/ Christopher M. Murray
/s/ Sima G. Patel
/s/ Kathleen A. Feeney