Order

Michigan Supreme Court
Lansing, Michigan

November 6, 2026

Megan K. Cavanagh,
Chief Justice

Brian K. Zahra
Richard H. Bernstein
Elizabeth M. Welch
Kyra H. Bolden
Kimberly A. Thomas
Noah P. Hood,
Justices

SC: 169775
COA: 372908
Berrien CC: 1997-403846-FC

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

v

MARK ANTHONY ABBATOY,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the January 20, 2026 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

BOLDEN, J. (*dissenting*).

In *People v Boykin*, 510 Mich 171, 193-194 (2022), this Court held that a trial court must consider a defendant's youth as a mitigating factor when sentencing the defendant to a term-of-years sentence under MCL 769.25 or MCL 769.25a but that this consideration of youth "need not be articulated on the record." This appeal concerns whether the trial court complied with *Boykin* when resentencing defendant, Mark Abbatoy, for a third time, to a term of 40 to 60 years' imprisonment for felony murder committed when he was 17 years old. In a divided decision, the Court of Appeals held that the trial court failed to properly consider Abbatoy's youth as a mitigating factor and remanded the case for a fourth resentencing.

The dueling views from the lower court judges in this case highlight reasonable and recurring disagreements about how to interpret *Boykin*'s holding. Because our lower courts would benefit from further guidance from this Court on the issue, I would have ordered supplemental briefing and oral argument on the prosecution's application for leave to appeal.

I. *BOYKIN* AND RELEVANT LEGAL BACKGROUND

When imposing a criminal sentence, the trial court must "exercise discretion in a

way that ensures the individualized sentence conforms with the principle of proportionality." *Id*. at 183. Generally, then, the question for reviewing courts is whether the trial court abused its discretion when choosing a particular sentence. *Id*. at 182. That standard is deferential—the trial court must only select a sentence within the principled range of outcomes. *Id*. "An appropriate sentence should give consideration to the reformation of the offender, the protection of society, the discipline of the offender, and the deterrence of others from committing the same offense," otherwise known as the *Snow* factors. *Id*. at 183, citing *People v Snow*, 386 Mich 586, 592 (1972).

In cases where mandatory life without parole (LWOP) is no longer a constitutionally permissible sentence because of the offender's age, the prosecution must file a motion if it seeks an LWOP sentence. MCL 769.25(2); MCL 769.25a(4)(b). If the prosecution does not do so or if the trial court concludes, following an evidentiary hearing on the prosecution's motion, that the prosecution has not met its burden to show that LWOP is an appropriate sentence, then the court must sentence the defendant to a term of years. The Legislature has provided that the minimum term-of-years sentence must fall between 25 and 40 years' imprisonment. MCL 769.25(9); MCL 769.25a(4)(c).[1]

In *Boykin*, this Court considered a trial court's obligations when sentencing a juvenile to a term of years under this statutory scheme. We held that a trial court "must consider a juvenile defendant's youth to be a mitigating factor" but is not required "to articulate on the record how a defendant's youth affected the decision." *Boykin*, 510 Mich at 178. "In other words, there is no authority that imposes a higher standard of articulation regarding youth beyond our general requirement that a trial court must adequately explain its sentence on the record in order to facilitate appellate review." *Id*. at 194. *Boykin* explained that, although a trial court is "not required to consider each of [the *Snow*] factors when imposing a sentence," *id*. at 183-184, a court's consideration of the mitigating qualities of youth "will inevitably factor into *Snow*'s four considerations," *id*. at 189. "However, merely considering the mitigating qualities of youth within *Snow*'s sentencing criteria stops short of requiring trial courts to articulate a basis on the record to explain how youth affected the sentence imposed." *Id*. at 193. Put differently, "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." *People v Copeland*, 350 Mich App 577, 587, 603 (2024), lv den 515 Mich 974 (2024) (rejecting the defendant's argument that the trial court failed to treat his youth as a mitigating factor when imposing a minimum sentence of 38 years and 3 months).

---

[1] The required maximum term-of-years sentence for Abbatoy and others whose cases were final on or before June 24, 2012, is 60 years, see MCL 769.25a(4)(c), whereas the maximum for offenders subject instead to MCL 769.25's procedures is "not less than 60 years," MCL 769.25(9).

II. FACTUAL BACKGROUND

In this case, Abbatoy was convicted of first-degree felony murder, along with a codefendant, for the 1997 killing of the codefendant's mother. Abbatoy committed the offense when he was 17 years old, and the trial court sentenced him to the then-mandatory penalty of LWOP. After the United States Supreme Court's decisions in *Miller v Alabama*, 567 US 460, 465 (2012), and *Montgomery v Louisiana*, 577 US 190, 208-209 (2016)—which required states to revisit mandatory LWOP sentences imposed on juveniles—the prosecution moved to resentence defendant to LWOP. Following an evidentiary hearing, the trial court denied the prosecution's motion, and in June 2021, it resentenced Abbatoy to 40 to 60 years' imprisonment. After the issuance of *Boykin*, the Court of Appeals vacated Abbatoy's sentence and remanded for another resentencing because the trial court's pre-*Boykin* ruling failed to consider Abbatoy's youth as a mitigating factor. *People v Abbatoy*, unpublished per curiam opinion of the Court of Appeals, issued August 18, 2022 (Docket No. 357766) (*Abbatoy I*).[2]

On remand, in January 2023, the trial court largely relied on its first resentencing analysis and imposed the same term of imprisonment of 40 to 60 years. The Court of Appeals again vacated the sentence and remanded for resentencing, stating that "the trial court was required to begin anew in making findings consistent with the instructions set forth in" *Abbatoy I*, but it did not do so. *People v Abbatoy*, unpublished per curiam opinion of the Court of Appeals, issued July 25, 2024 (Docket No. 364852) (*Abbatoy II*) (opinion by YOUNG, J.), p 8. The *Abbatoy II* panel identified "two *Boykin* principles for trial courts: (1) observing a defendant's age is not the same as considering it a mitigating factor, and (2) exclusive or near-exclusive focus on the nature of the offense can signal a misunderstanding of *Boykin*." *Id*. at 7.[3] The prosecution did not appeal *Abbatoy I* or *Abbatoy II* to this Court.

That brings us to the resentencing proceedings at issue in this appeal. On remand once more, in October 2024, the trial court again resentenced Abbatoy to a term of 40 to 60 years' imprisonment. And, once again, the Court of Appeals vacated Abbatoy's

---

[2] The panel did, however, reject Abbatoy's argument that the trial court abused its discretion by imposing a longer sentence than the one imposed on his codefendant. *Id*. at 6. The panel explained that, based on the trial court's reasonable factual finding that Abbatoy had inflicted the injuries that led to the victim's death, the two offenders were not similarly situated and therefore it was "not necessarily unreasonable" for Abbatoy to receive a harsher punishment. *Id*.

[3] Although the lead opinion in *Abbatoy II* was signed only by Judge YOUNG, it appears that Judge FEENEY joined the opinion in full. See *Abbatoy II*, unpub op at 1 (FEENEY, J., concurring) (stating that she "concur[red] with the majority opinion").

sentence and remanded for resentencing. *People v Abbatoy*, unpublished per curiam opinion of the Court of Appeals, issued January 20, 2026 (Docket No. 372908) (*Abbatoy III*). Discussing each of the *Snow* factors, the panel majority explained that it was unclear from the trial court's analysis how or whether the court considered Abbatoy's youth to be a mitigating factor. *Id*. at 3-4. The panel majority therefore held that the trial court's "repeated bare references to defendant's youth as a mitigating factor fell short of creating a record of a substantive, individualized analysis that [the Court could] meaningfully review." *Id*. at 4. The majority also ordered that resentencing occur before a different judge. *Id*. at 5. Judge O'BRIEN dissented. In her view, the trial court amply complied with *Boykin*: "[T]he trial court explicitly considered defendant's youth, identified it as a mitigating factor, and recognized, among other things, how defendant's youth and its attendant circumstances affected defendant's conduct during and immediately after the crime for which he was being sentenced; how, if released, defendant would be less likely to engage in the impulsive behaviors that led to the crime because he had matured since then; and how defendant's age at the time of his offense made him less culpable and thus worthy of a term-of-years sentence." *Id*. at 1 (O'BRIEN, J., dissenting). The prosecution now seeks leave to appeal.

III. DISCUSSION

I would have taken up the prosecution's application in this case because our lower courts would benefit from further guidance on the application of *Boykin*. While some Court of Appeals panels appear to interpret *Boykin* as requiring a more exacting inquiry into a trial court's consideration of youth as a mitigating factor, others have seemingly viewed compliance with *Boykin* as a low bar to clear.

This case provides a useful example of this contrast. Start with the trial court. During its latest resentencing rationale, the trial court first acknowledged this Court's statement from *Boykin*: "Sentencing juvenile defendants who were convicted of first-degree murder is an exceptionally daunting task for trial courts." *Boykin*, 510 Mich at 184. The trial court discussed the details of the offense and Abbatoy's role, finding based on the record evidence that he was "solely responsible" for striking the victim. The court next recounted its previous findings from the evidentiary hearing, including that some of Abbatoy's postoffense conduct reflected "the incompetencies associated with youth." Turning to the *Snow* factors, the court briefly discussed each one. While not a model of clarity, the court found, among other things: Abbatoy's illegal drug use at the time of the offense was "troubling," but the potential for future substance abuse was not as concerning given his present "maturity" as compared to the mitigating factor of his age at the time of the offense; Abbatoy continued to have mental health issues but they had improved in the decades since the crime due to regular psychiatric care; and the punishment factor still cut against Abbatoy, "even when considering his youth as a mitigating circumstance." Throughout the explanation of its sentence, the court stated several times that it was applying or considering Abbatoy's youth as a mitigating factor, including in its analysis of the *Snow* factors.

The Court of Appeals majority, however, went through each *Snow* factor and determined that the trial court's analysis was insufficient under *Boykin* on each point. The panel determined, as the *Abbatoy I* panel had similarly noted, that the trial court was " 'merely observing defendant's age, not taking defendant's youth and its attendant circumstances into consideration for purposes of sentencing defendant.' " *Abbatoy III*, unpub op at 4 (opinion of the Court), quoting *Abbatoy I*, unpub op at 4.[4] In many respects, the Court of Appeals opinion comes mightily close to faulting the trial court for an insufficient articulation of its consideration of youth. See, e.g., *Abbatoy III*, unpub op at 3 ("We cannot determine from the trial court's recitations that youth was meaningfully incorporated into its analysis of the first *Snow* factor."); *id*. at 4 ("[I]t is unclear how the trial court considered defendant's youth to mitigate this particular *Snow* factor."). See also *id*. at 7 (O'BRIEN, J., dissenting) ("The majority's conclusion that it cannot 'meaningfully review' the trial court's on-the-record explanation is rooted not in *Boykin* but in the majority's belief that the trial court needed to sufficiently explain on the record *how* it treated defendant's youth as a mitigating factor."). Yet *Boykin* expressly "stop[ped] short of requiring trial courts to articulate a basis on the record to explain how youth affected the sentence imposed." *Boykin*, 510 Mich at 193. On the other hand, *Boykin* reiterated that a trial court's consideration of youth as a mitigating factor coexists with Michigan's longstanding requirement that "a trial court must adequately explain its sentence on the record in order to facilitate appellate review," *id*. at 194, so the panel majority reasoned that the trial court's mere mentions that it considered Abbatoy's youth to be a mitigating factor was insufficient to meet this requirement, *Abbatoy III*, unpub op at 4 (opinion of the Court).

The Court of Appeals dissenting judge viewed the record much differently. Describing *Boykin* as "not a demanding standard," Judge O'BRIEN believed that "[t]he trial court's lengthy on-the-record explanation for the sentence it imposed is plainly sufficient to facilitate appellate review." *Id*. at 1, 7 (O'BRIEN, J., dissenting). Further, given the trial court's "explicit statements" that it was treating Abbatoy's youth as a mitigating factor, the dissent would have concluded that the trial court did exactly that, "absent some indication"

---

[4] To understand what prompted the *Abbatoy I* panel to conclude that the trial court was "merely observing defendant's age," consider what the trial court stated at the first resentencing:

> If you—if your mother had had you 22 weeks before she did we would [not] be here today. You would have been 18 years of age and you wouldn't have had the right to a *Miller* hearing. But we are where we are.

That improper consideration is far afield from any statements made by the trial court in the third resentencing that is at issue here.

otherwise. *Id*. at 6. In Judge O'BRIEN's view, "by discussing defendant's youth as a mitigating factor and expressly applying the *Miller* and *Snow* factors to the facts [and] circumstances of defendant's case, the trial court here did everything that our Supreme Court in *Boykin* suggested courts sentencing juvenile defendants do in order to facilitate appellate review." *Id*. at 7. In sum, from the same factual record, the Court of Appeals majority and dissent took a radically different view about the application of *Boykin*.

Other panels have approached the *Boykin* analysis with a more deferential posture than the Court of Appeals majority here. In *Copeland*, 350 Mich App at 587, for example, the Court of Appeals discerned no error in the trial court's failure to emphasize the defendant's youth when addressing the *Snow* factors. The panel found it "obvious" why such emphasis did not occur: The defendant "was not a juvenile at the time of his resentencing, but instead had already served more than 20 years in prison." *Id*. Thus, although not required to articulate its consideration of the *Snow* factors, the trial court appropriately examined them with the benefit of hindsight. *Id*. at 587 n 2, 588. Similar, too, is *People v Robinson*, unpublished per curiam opinion of the Court of Appeals, issued November 17, 2025 (Docket No. 372753), pp 7-8, where the panel rejected the defendant's argument that the trial court failed to comply with *Boykin*. In that case, while the trial court offered only a "brief statement in support of its sentence," the parties had presented extensive arguments to the court about how the defendant's youth impacted the relevant sentencing considerations. *Id*. Thus, "although the trial court could have done significantly more to justify its resentencing," the record and background information presented to the court revealed that the court "did enough" to satisfy *Boykin*. *Id*. at 8. Further examples abound of dichotomy in the treatment of *Boykin*. Compare *People v Kitchen*, unpublished per curiam opinion of the Court of Appeals, issued April 11, 2024 (Docket No. 365645), p 4, lv den 516 Mich 880 (2024) (rejecting a *Boykin* challenge where "[t]he record establishe[d] that defendant's youth was argued at the sentencing hearing, and thus, the court necessarily considered defendant's youth in making its determination"), with *People v Jones*, unpublished per curiam opinion of the Court of Appeals, issued July 15, 2026 (Docket No. 367476), pp 10-11 (remanding for resentencing because "although the trial court evinced awareness of defendant's age and considered at least some of its attendant characteristics, the trial court never said that it was *treating* his age and those characteristics as *mitigating*").

My goal in highlighting these decisions of the Court of Appeals is not to endorse any singular approach but to show the varying degrees of rigidity that have been applied to the *Boykin* analysis. These differences of opinion are not surprising, as lower courts have clearly been struggling to understand what type of sentencing rationale satisfies *Boykin*. See, e.g., *Abbatoy II*, unpub op at 2 (FEENEY, J., concurring) ("I acknowledge that trial courts are left with an almost impossible task, when resentencing under MCL 769.25a to a

term of years, of providing sufficient justification for a sentence that facilitates appellate review but does not need to set forth either the *Miller* or *Snow* factors."); *Robinson*, unpub op at 6 ("In practice, *Boykin*'s standard might counterintuitively incentivize trial courts to adopt a less-is-more approach—that is, to avoid articulating their sentencing reasoning or to minimize it to little more than an acknowledgment of the relevant case law governing sentencing[.]"). Therefore, no matter the correct result in this case, I would have voted to hear argument in this appeal in the hopes of providing much-needed guidance for our lower courts.[5] Because the Court instead denies leave to appeal, I respectfully dissent.

ZAHRA, J., joins the statement of BOLDEN, J.

[5] Hearing this case now would also promote the interests of judicial economy. If the Court of Appeals majority erred, as the dissent cogently reasoned (and the prosecution echoes on appeal), correcting that error would avoid a remand for a fourth resentencing that will be presided over by a new judge who is unfamiliar with this case.

I, Elizabeth Kingston-Miller, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 6, 2026

Clerk

t1103