No. 128428

IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court
	)	of Illinois, First Judicial District,
Plaintiff-Appellant,	)	No. 1-18-2305
	)	
	)	There on Appeal from the Circuit
v.	)	Court of Cook County, Illinois,
	)	No. 12 CR 18655
	)	
MIGUEL WEBSTER,	)	The Honorable
	)	Michele McDowell Pitman,
Defendant-Appellee.	)	Judge Presiding.

REPLY BRIEF OF PLAINTIFF-APPELLANT
PEOPLE OF THE STATE OF ILLINOIS

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ORAL ARGUMENT REQUESTED

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ARGUMENT

As the People's opening brief established, the appellate court improperly invoked Supreme Court Rule 366(a) to vacate defendant's sentence and remand for resentencing after finding no error or abuse of discretion by the trial court. Defendant all but concedes that the appellate court's reliance on Rule 366(a) was misplaced and that, under the applicable Supreme Court Rule 615(b), a reviewing court may not disturb a sentence without finding an error or abuse of discretion by the trial court. He contends, however, that the appellate court *did* find a sentencing error by the trial court. But defendant's recharacterization of the appellate court's decision finds no support in the appellate court's own reasoning. And in any event, the record demonstrates that the trial court neither erred nor abused its discretion in imposing defendant's sentence. This Court should thus reverse the appellate court's judgment. Moreover, because defendant's sentence is supported by the record, the Court should decline defendant's request that it exercise its supervisory authority to reduce his sentence or order resentencing.

I. The Appellate Court Lacked Authority to Vacate Defendant's Sentence and Remand for Resentencing.

A. A reviewing court may disturb a sentence only if the trial court erred or abused its discretion.

As the People's opening brief explained, *see* Peo. Br. 16-17,[1] under Rule 615(b), which governs the powers of a reviewing court in a criminal appeal, a reviewing court may disturb a sentence only if it "was unlawful or amounted to an abuse of discretion," *People v. Jones*, 168 Ill. 2d 367, 374 (1995). And the appellate court may not evade that restriction on its authority by invoking the potentially broader "remandment" power accorded to reviewing courts in civil appeals under Rule 366(a), *see* Peo. Br. 18-23, as the appellate court purported to do here, *see* A11, ¶ 40.

Defendant does not defend the appellate court's reliance on Rule 366(a), *see* Def. Br. 23-25, and acknowledges that it "may not have been . . . proper," *id.* at 13. Nor does defendant contest that under Rule 615(b), a reviewing court may not disturb a sentence without finding an error or abuse of discretion by the trial court. *See id.* at 23-25. Accordingly, for the reasons discussed in the People's opening brief, *see* Peo. Br. 16-23, this Court should hold that Rule 615(b) prohibited the appellate court from disturbing defendant's sentence in the absence of error or abuse of discretion by the trial

[1] "Peo. Br.," "Def. Br.," "C," "SSC," "R," "PE," and "A" refer, respectively, to the People's opening brief, defendant's brief, common law record, secured supplemental common law record, report of proceedings, physical trial exhibits, and appendix to the People's opening brief.

court, and that Rule 366(a) did not permit the appellate court to circumvent that limitation on its authority.

B. The appellate court found no error or abuse of discretion by the trial court.

Despite the appellate court's express and exclusive reliance on Rule 366(a), *see* A11, ¶ 40, defendant contends that the appellate court did in fact find error in his sentence, so that its decision to vacate the sentence and remand for resentencing was justified under Rule 615(b), *see* Def. Br. 23-25. But defendant's attempt to recharacterize the appellate court's rationale is untenable.

Notably, the appellate court did not purport to find any error or abuse of discretion in defendant's sentence, as the dissenting justice noted. *See* A16, ¶ 55 (Pierce, J., dissenting). Indeed, the appellate court acknowledged that the trial court considered defendant's youth and its attendant characteristics, *see* A12, ¶ 41, and "took great care in imposing [defendant's] sentence," A13, ¶ 45. Nevertheless, defendant suggests that the appellate court implicitly found error. *See* Def. Br. 24 (arguing that appellate court "never stated that it found that no error occurred"). But the appellate court's novel invocation of Rule 366(a) would make no sense if it had found error. If the appellate court had found an error in defendant's sentence, it surely would have relied on the well-established power to remand for resentencing under Rule 615(b), without needing to invoke an inapplicable rule governing remands in civil appeals.

The appellate court's remand instructions also undercut defendant's suggestion that the appellate court found an error or abuse of discretion in the trial court's sentencing decision. After correctly rejecting defendant's claim that his 40-year sentence violates the Eighth Amendment rule announced in *Miller v. Alabama*, 567 U.S. 460 (2012), *see* A10-11, ¶¶ 34-37, the appellate court nonetheless held that "fair[ness]" required allowing the trial judge "to reconsider . . . whether that is the sentence that she finds to be appropriate for this defendant," given this Court's intervening holding in *People v. Buffer*, 2019 IL 122327, that a sentence *greater* than 40 years implicates *Miller*, A13, ¶¶ 44-45. But ordering a trial court to reconsider a sentence in the interest of fairness — rather than to remedy an error or abuse of discretion — is not a power accorded the appellate court under Rule 615(b), but instead "amount[s] to an unauthorized use of supervisory authority, which the appellate court does not possess." *People v. Whitfield*, 228 Ill. 2d 502, 520 (2007); *see* Peo. Br. 24.

C. The record reveals no error or abuse of discretion by the trial court.

Defendant's effort to reconceptualize the appellate court's decision as an error-correcting remand under Rule 615(b) also fails because the record demonstrates that the trial court neither erred nor abused its discretion in fashioning defendant's 40-year sentence.

At the outset, defendant appears to concede that the appellate court correctly rejected his Eighth Amendment challenge to his sentence. *See* Def.

Br. 15. In the appellate court, defendant argued that his 40-year sentence was a *de facto* life sentence that contravened *Miller*'s Eighth Amendment rule because the trial court imposed it without a finding of permanent incorrigibility. *See* A10, ¶ 34. But as the People's opening brief explained, *see* Peo. Br. 14-15, the appellate court correctly rejected this contention based on this Court's decision in *Buffer*, which held that a "sentence of 40 years or less imposed on a juvenile offender does not constitute a *de facto* life sentence" and is therefore not subject to *Miller*'s rule, *Buffer*, 2019 IL 122327, ¶ 41.[2]

Defendant now concedes that his 40-year sentence "is not a *de facto* life sentence," Def. Br. 15, but nevertheless contends that the trial court's imposition of a sentence just short of *de facto* life "was erroneous" because it is somehow "inconsistent" with the trial court's supposed finding that he "had significant rehabilitative potential," *id.* at 13. But defendant, like the appellate court majority, vastly overstates the trial court's finding concerning his rehabilitative potential. *See* Peo. Br. 25-26. At most, the trial court found that defendant's 40-year sentence would allow him to be released at an age —

[2] As the People's opening brief also explained, *see* Peo. Br. 15-16, defendant's sentence would comport with the Eighth Amendment even if it were *de facto* life because it "was not mandatory and the trial judge had discretion to impose a lesser punishment in light of [defendant]'s youth," *Jones v. Mississippi*, 141 S. Ct. 1307, 1322 (2021); *see People v. Wilson*, 2023 IL 127666, ¶ 42 (overruling *People v. Holman*, 2017 IL 120655, ¶ 46, which held that Eighth Amendment bars discretionary life without parole for juvenile homicide offender absent finding of permanent incorrigibility, because it was "*directly* at odds with the holding in *Jones*" (emphasis in original)).

57 years old — when he would be "young enough to have been rehabilitated and to go on with his life." R963. But that statement is far from a finding of "significant rehabilitative potential."

Nor is there any inconsistency between the trial court's imposition of a 40-year sentence and its recognition that defendant has the potential to be rehabilitated by the time he completes that sentence. Defendant cites a handful of post-*Buffer* decisions in which the appellate court vacated *de facto* life sentences imposed before *Buffer* because the sentencing courts had either found that the defendant had rehabilitative potential or otherwise expressed an intent not to impose a *de facto* life sentence. Def. Br. 16 (citing *People v. Terry*, 2021 IL App (1st) 182084-U; *People v. Ruiz*, 2021 IL App (1st) 182401; *People v. DiCorpo*, 2020 IL App (1st) 172082; and *People v. Mahomes*, 2020 IL App (1st) 170895). But these decisions are plainly inapposite because defendant was not sentenced to *de facto* life, as he concedes. *See* Def. Br. 19. And because a "sentence of 40 years or less imposed on a juvenile offender provides some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation," *Buffer*, 2019 IL 122327, ¶ 41 (internal quotation marks omitted), defendant's sentence is fully consistent with a finding that he has some rehabilitative potential.

Defendant also cites two appellate decisions finding that sentencing courts abused their discretion in imposing sentences less than *de facto* life on juvenile homicide offenders. *See* Def. Br. 17 (citing *People v. Bruce*, 2022 IL

App (1st) 210811, and *People v. McKinley*, 2020 IL App (1st) 191907). But even assuming that those cases were correctly decided, they too are distinguishable. In each case, the appellate court found not only that the trial court disregarded substantial evidence of the defendant's demonstrated rehabilitation, *see Bruce*, 2022 IL App (1st) 210811, ¶¶ 30, 35; *McKinley*, 2020 IL App (1st) 191907, ¶¶ 73-78, but also that the trial court failed to properly consider other relevant sentencing factors, *see Bruce*, 2022 IL App (1st) 210811, ¶¶ 32-39; *McKinley*, 2020 IL App (1st) 191907, ¶¶ 87-91.

Here, in contrast, defendant acknowledges that his sentencing hearing "complied with the [juvenile sentencing] statute and the directions of *Miller*." Def. Br. 19 (citing 730 ILCS 5/5-4.5-105). And he does not suggest that the trial court failed to properly consider — or disregarded — any relevant aggravating or mitigating factor. Indeed, he acknowledges that the trial court considered his mitigation evidence and, having done so, exercised its discretion to decline to impose a sentence enhancement based on his use of a firearm in the commission of the offense. Def. Br. 19; *see* R962. Thus, rather than identifying any error in the trial court's decision-making process, defendant simply asks this Court to reweigh the relevant sentencing factors and reach a different sentencing decision. *See* Def. Br. 20-22. But that would constitute "an improper exercise of the powers of a reviewing court." *People v. Alexander*, 239 Ill. 2d 205, 214-15 (2010).

A trial court's sentencing decision is "entitled to great deference" and "will be deemed an abuse of discretion" only if it "is greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense." *Alexander*, 239 Ill. 2d at 212 (internal quotation marks omitted). Moreover, while a trial court must "give[ ] weight" to both "[t]he seriousness of the offense *and* rehabilitation of the offender" when fashioning a sentence, *People v. Young*, 124 Ill. 2d 147, 156 (1988) (emphasis in original), "a defendant's rehabilitative potential is not entitled to greater weight than the seriousness of the offense," *Alexander*, 239 Ill. 2d at 214 (cleaned up); *see also People v. Coty*, 2020 IL 123972, ¶ 24 ("there is no indication in our constitution that the possibility of rehabilitating an offender was to be given greater weight and consideration than the seriousness of the offense in determining a proper penalty") (cleaned up).

Here, in determining his sentence, the trial court properly considered both the seriousness of defendant's offense and various mitigating factors associated with defendant's youth. *See* R959-63. The evidence established that defendant shot his 15-year-old friend twice in the face with a sawed-off shotgun, from a distance of two to three feet, while the victim's arm was raised in a defensive posture. R539-40, 632-34, 657-63. Defendant then dragged the victim's body down an alley, dumped it next to a neighbor's garage, and attempted to clean the crime scene. R773-74, 800-04. In an interview with police the next morning, defendant explained that he fired the

shots about five seconds apart and agreed that the second shot was intended to "finish [the victim] off." PE84B at 58:30-58:45; PE84C at 29:20-29:40.

Considering this evidence, the trial court reasonably characterized defendant's murder of an unarmed 15-year-old boy as a "very serious offense" and found that defendant's actions following the shooting tended "more toward aggravation when looking at an appropriate sentence." R961-62. The trial court likewise acted reasonably in affording minimal weight to defendant's claim to have acted in self-defense or with an unreasonable belief in the need for self-defense. *See* Def. Br. 21, 26. As the trial court explained, the jury necessarily rejected defendant's contention that the victim had pointed the shotgun at him first. R961. And the totality of the evidence — including the victim's defensive posture and distance from defendant at the time of the shooting, defendant's subsequent actions to conceal the shooting, and his admissions about the timing and purpose of firing the second shot — undermined his claims of self-defense and imperfect self-defense.

The trial court also weighed evidence of defendant's age and its attendant characteristics. The record showed that, at the time of the offense, defendant was less than two months shy of his 18th birthday, SSC1, had enrolled in a GED program but attended only one class, SSC7, was working as a part-time hospital aide, R741, 949, and had no prior criminal history, SSC6. And the trial court found that defendant "lacked maturity" at the time of the offense. R962. But the record also showed that defendant participated

in a violent jailhouse brawl at age 23, more than five years after the shooting, R935-38, weighing against any finding that he has significant rehabilitative potential.

In sum, given the seriousness of defendant's offense, his actions afterward, and the minimal evidence of his rehabilitative potential, defendant's 40-year sentence is not "greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense," and thus cannot be deemed to have been an abuse of discretion by the trial court. *Alexander*, 239 Ill. 2d at 212.

For all these reasons, the trial court did not err or abuse its discretion in sentencing defendant, and the appellate court exceeded its authority in vacating defendant's sentence and remanding for resentencing. This Court should thus reverse the appellate court's judgment and reinstate the sentence imposed by the trial court.

II. Supervisory Relief Is Unwarranted.

This Court should also reject defendant's alternative request that the Court reduce his sentence or order resentencing under its supervisory authority, *see* Def. Br. 25-26, because he has not shown the existence of "exceptional circumstances," *Statland v. Freeman*, 112 Ill. 2d 494, 497 (1986),

justifying the exercise of that "extraordinary power," *People v. Mayfield*, 2023 IL 128092, ¶ 29 (internal quotation marks omitted).

Defendant contends that his 40-year sentence is "not an appropriate sentence" because his crime "reflected immaturity" and because he "demonstrated significant rehabilitative potential." Def. Br. 25-26. But for the reasons discussed above, *see supra* pp. 8-10, and in the People's opening brief, *see* Peo. Br. 25-26, the record does not support a finding that defendant's crime reflected transient immaturity or that he has significant rehabilitative potential. Defendant's efforts to move the victim's body and clean the crime scene after the shooting suggest a degree of maturity that, as the trial court found, tends "more toward aggravation when looking at an appropriate sentence." R962. And his subsequent involvement in violence while awaiting sentencing more than five years later, *see* R935-38, suggests that his prospects for rehabilitation are minimal. Given this evidence, and "consider[ing] all of the factors in aggravation and mitigation," R959 — including the seriousness of defendant's offense, and his age and its attendant characteristics — the trial court reasonably concluded that 40 years was "the appropriate sentence," R962, and that determination was neither erroneous nor an abuse of discretion, *see supra* pp. 5-10.

Nor has defendant shown any "exceptional circumstance[ ]," *Statland*, 112 Ill. 2d at 497, that would warrant this Court's exercise of supervisory authority to disturb the trial court's error-free sentencing decision. In *People*

ex rel. Ryan v. Roe, 201 Ill. 2d 552, 588 (2002), on which defendant relies, *see* Def. Br. 26, this Court exercised its supervisory authority to reduce a defendant's sentence as an "equitable solution" where the parties (in negotiating defendant's plea agreement) and trial court (in imposing the parties' agreed-upon sentence) mistakenly believed that the sentence would be exempt from the truth-in-sentencing statute's limitation on good-conduct credits.

No similar equitable consideration is present here. Both defendant and the appellate court majority suggest that the trial court may not have imposed a 40-year sentence had it known (as *Buffer* later held) that a sentence *greater* than 40 years is *de facto* life for Eighth Amendment purposes. *See* Def. Br. 19, 22; A12, ¶ 40. But as the People's opening brief explained, *see* Peo. Br. 26-27, the record dispels such speculation. For one thing, the trial court expressly concluded that 40 years was "the appropriate sentence" given the seriousness of defendant's offense and all other relevant sentencing factors, including defendant's age and its attendant characteristics. R962. And the trial court's recognition that the sentence would result in defendant's release at age 57, when he would be "young enough to have been rehabilitated and to go on with his life," R963, is consistent with *Buffer*'s conclusion that a 40-year sentence provides a juvenile offender a "meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation," 2019 IL 122327, ¶ 41 (internal

quotation marks omitted). There is thus no reason to believe that the trial court would alter defendant's sentence in light of *Buffer*.

In sum, because defendant identifies no "exceptional circumstance[ ]," *Statland*, 112 Ill. 2d at 497, or "equitable" consideration, *Roe*, 201 Ill. 2d at 588, that would support this Court substituting its sentencing judgment for that of the trial court — or requiring the trial court to reconsider defendant's sentence — the Court should decline defendant's alternative request for supervisory relief.

CONCLUSION

This Court should reverse the judgment of the appellate court and decline defendant's request for supervisory relief.

July 11, 2023

Respectfully submitted,

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RULE 341(c) CERTIFICATE OF COMPLIANCE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages containing the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, and the certificate of service, is 13 pages.

/s/ Eric M. Levin
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CERTIFICATE OF FILING AND SERVICE

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct. On July 11, 2023, the **Reply Brief of Plaintiff-Appellant People of the State of Illinois** was filed with the Clerk of the Supreme Court of Illinois, using the court's electronic filing system, which provided service of such filing to the email addresses of the persons named below:

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