

TABLE OF CONTENTS

NATURE OF THE CASE	1
ISSUES PRESENTED FOR REVIEW.....	1
JURISDICTION.....	2
STATEMENT OF FACTS	2
A. Defendant is convicted of murder and attempted murder for shooting two other teenagers.	2
B. Under a mandatory scheme, the trial court sentences defendant to consecutive prison terms of 55 and 45 years, with no eligibility for parole.	5
C. The appellate court vacates the judgment, concluding that defendant’s mandatory, de facto life sentence violates the Eighth Amendment.....	6
D. Under a newly enacted discretionary scheme, the trial court resentsences defendant to consecutive prison terms of 55 years and 45 years, with eligibility for parole after 20 years.	8
E. The appellate court vacates the amended judgment and remands for resentencing before a different judge.....	13

POINTS AND AUTHORITIES

STANDARDS OF REVIEW	14
<i>People v. Alexander</i> , 239 Ill. 2d 205 (2010)	15
<i>People v. Class</i> , 2025 IL 129695	14
<i>People v. McLaurin</i> , 235 Ill. 2d 478 (2009).....	15
<i>People v. Spencer</i> , 2025 IL 130015	14
<i>People v. Webster</i> , 2023 IL 128428	14
<i>People v. Welch</i> , 2025 IL App (1st) 231116	14-15

ARGUMENT	15
I. The Appellate Court Exceeded Its Authority by Vacating Defendant’s Sentences Where It Did Not Find, and Defendant Failed to Show, That the Sentences Were Unconstitutional or an Abuse of Discretion.	15
<i>People v. Webster</i> , 2023 IL 128428	15
A. The appellate court improperly vacated defendant’s sentences because it disagreed with the weight the trial court assigned to youth-related factors.....	16
<i>People v. Alexander</i> , 239 Ill. 2d 205 (2010)	17
<i>People v. Anderson</i> , 2024 IL App (1st) 220864.....	19
<i>People v. Bolyard</i> , 61 Ill. 2d 583 (1975).....	19, 20
<i>People v. Coleman</i> , 183 Ill. 2d 366 (1998)	16
<i>People v. Elliott</i> , 2022 IL App (1st) 192294.....	19
<i>People v. Etherton</i> , 2017 IL App (5th) 140427	16
<i>People v. Jones</i> , 168 Ill. 2d 367 (1995).....	17
<i>People v. Kendrick</i> , 2023 IL App (3d) 200127	19
<i>People v. Morgan</i> , 59 Ill. 2d 276 (1974)	17
<i>People v. Perruquet</i> , 68 Ill. 2d 149 (1977).....	16, 17
<i>People v. Stacey</i> , 193 Ill. 2d 203 (2000)	17
<i>People v. Streit</i> , 142 Ill. 2d 13 (1991).....	17
<i>People v. Webster</i> , 2023 IL 128428	17, 18
730 ILCS 5/5-4-1	16

B. The appellate court was not justified in vacating defendant's sentences because he showed neither constitutional error nor an abuse of discretion.....	20
1. Defendant's sentences did not violate the Eighth Amendment, the sole claim he raised on appeal....	21
<i>Jones v. Mississippi</i> , 593 U.S. 98 (2021)	21
<i>Miller v. Alabama</i> , 567 U.S. 460 (2012)	21
<i>People v. Jones</i> , 2021 IL 126432	21
<i>People v. Spencer</i> , 2025 IL 130015	21
<i>People v. Wilson</i> , 2023 IL 127666	21
730 ILCS 5/5-4.5-115 (2020)	21
2. Defendant did not argue, much less show, that the trial court was biased.....	21
<i>Bracy v. Gramley</i> , 520 U.S. 899 (1997)	22
<i>Eychaner v. Gross</i> , 202 Ill. 2d 228 (2002)	22, 23
<i>Liteky v. United States</i> , 510 U.S. 540 (1994)	23
<i>People v. Perruquet</i> , 68 Ill. 2d 149 (1977)	23
<i>People v. Rademacher</i> , 2016 IL App (3d) 130881	22, 23
<i>People v. Vance</i> , 76 Ill. 2d 171 (1979)	22
<i>People v. Williams</i> , 235 Ill. 2d 286 (2009)	21
3. Defendant did not argue, much less show, that the trial court abused its discretion.	24
<i>Graham v. Florida</i> , 560 U.S. 48 (2010)	25
<i>Kennedy v. Louisiana</i> , 554 U.S. 407 (2008)	25
<i>People v. Alexander</i> , 239 Ill. 2d 205 (2010)	24

<i>People v. Anderson</i> , 2024 IL App (1st) 220864.....	27
<i>People v. Cox</i> , 377 Ill. App. 3d 690 (1st Dist. 2007)	24
<i>People v. Decatur</i> , 2015 IL App (1st) 130231	25
<i>People v. Elliott</i> , 2022 IL App (1st) 192294.....	27
<i>People v. Harmon</i> , 2015 IL App (1st) 122345	25
<i>People v. Hilliard</i> , 2023 IL 128186.....	26
<i>People v. Hussain</i> , 2024 IL App (1st) 230471	24-25
<i>People v. Jones</i> , 2021 IL 126432	25
<i>People v. Kendrick</i> , 2023 IL App (3d) 200127	25, 27
<i>People v. Stacey</i> , 193 Ill. 2d 203 (2000)	24
<i>People v. Williams</i> , 235 Ill. 2d 286 (2009)	24
<i>People v. Willis</i> , 2013 IL App (1st) 110233.....	24
II. The Appellate Court Exceeded Its Authority by Ordering a Substitution of Judge on Remand.	27
<i>Eychaner v. Gross</i> , 202 Ill. 2d 228 (2002).....	29
<i>People v. Class</i> , 2025 IL 129695	28
<i>People v. Webster</i> , 2023 IL 128428	28
<i>Raintree Homes v. Vill. of Long Grove</i> , 209 Ill. 2d 248 (2004).....	28-29
Ill. S. Ct. R. 615.....	28
725 ILCS 5/114-5.....	28
730 ILCS 5/5-4-1	28
CONCLUSION	29
CERTIFICATE OF COMPLIANCE	

APPENDIX

CERTIFICATE OF FILING AND SERVICE

NATURE OF THE CASE

Following a jury trial, defendant was convicted of committing first degree murder and attempted murder when he was 16 years old. Under the sentencing scheme that originally applied to these crimes, the trial court sentenced him to consecutive prison terms of 55 and 45 years, with no eligibility for parole, but the appellate court vacated and remanded for resentencing. Under a newly enacted, discretionary scheme, 730 ILCS 5/5-4.5-105 (2020), the trial court sentenced defendant to consecutive prison terms of 55 years for murder and 45 years for attempted murder, with eligibility for parole after 20 years. The appellate court vacated defendant's new sentences and ordered that a second resentencing take place before a different judge. No issue is raised on the charging instrument.

ISSUES PRESENTED FOR REVIEW

1. Whether the appellate court acted beyond the scope of its authority by vacating defendant's sentences, where it did not find, and defendant did not show, that the sentences violated the Eighth Amendment or that the trial court abused its discretion or was biased.

2. Whether the appellate court acted beyond the scope of its authority by ordering resentencing by a different judge, because defendant did not show actual bias.

JURISDICTION

This Court's jurisdiction lies under Supreme Court Rules 315 and 612(b). The Court granted leave to appeal on November 26, 2025.

STATEMENT OF FACTS

In 2010, a grand jury charged defendant with first degree murder for shooting D'Antonio Goss, C51-60; and attempted murder and aggravated battery with a firearm for shooting Corey Thompson, C76-77.¹ Defendant, then 16 years old, was subject to automatic transfer for criminal prosecution. *See* 705 ILCS 405/5-130(1)(a) (2010).

A. Defendant is convicted of murder and attempted murder for shooting two other teenagers.

Defendant's jury trial commenced in February 2014. *See* R241-46. Goss was 16 years old at the time of his death. R442. The forensic pathologist who conducted his autopsy testified that a bullet entered and exited his right arm, then re-entered the right side of his chest, where it penetrated his lung and lodged in his heart. R443. The wound caused rapid bleeding and death. R444, 450.

¹ "R," "C," "CI," and "A" refer to the report of proceedings, common-law record, impounded common-law record, and the appendix to this brief, respectively. "Def. App. Ct. Br." refers to defendant's opening brief in the appellate court, and the People have requested that the appellate court transmit certified copies of the briefs in accordance with Supreme Court Rule 318(c).

Corey (“CJ”) Thompson testified that he and Goss had attended Bowen High School in Chicago and had been friends since babyhood. R261-63, 276. On September 8, 2010, they left school at 2:46 p.m. to walk home, surrounded by fellow students. R265. At the intersection of 86th and Saginaw, they encountered defendant and Lacy (“Tank”) Sheppard. R268-70. Thompson had never seen defendant before. R270.

As they approached the intersection, defendant said, “This is what y’all want, this is what y’all going to get,” and he pulled out a black handgun, which he pointed at Thompson and started shooting. R271-72. As Thompson ran away, he felt a bullet strike his buttocks. R272-74. After stumbling, he collapsed on the sidewalk. R274. From that vantage point, he could see defendant on the corner, wearing a black hoodie and a burgundy-colored shirt from New Millenium High School. R275. He heard Goss say, “CJ, where are you, where are you, are you ok?” R276. Defendant walked in the direction of Goss’s voice and Thompson heard more gunshots before passing out. R276-77.

The day after the shooting, at the hospital, a detective showed Thompson a photo array from which he identified defendant as the person who had shot him. R280-82. From a second photo array, Thompson identified Sheppard as the person with defendant at the time, R283-84, but Thompson did not see Sheppard with a gun, R284-85. Thompson spent

three weeks in the hospital and suffered scars to his buttocks and abdomen. R278, 454.

Thompson's account was corroborated by Dortha Sims and Dashanea Johnson, who were also walking home together from school. R334-40. Sims saw defendant and Sheppard approach the intersection, heard defendant say something to Goss, and then saw defendant shoot Goss. R338-40. Johnson testified that when the girls encountered defendant and Sheppard near the intersection of 86th and Saginaw, R359-62, she noticed that defendant was holding a gun and began to run, R364-65. A few seconds later, she heard gunshots. R365-66. From a lineup conducted on September 10, 2010, both Sims and Johnson identified defendant as the shooter and Sheppard as his companion. R344-46, 367-69.

Marvin Floyd testified about an incident that took place less than two weeks before Goss's murder, on August 23, 2010, at a gas station at 2941 East 83rd Street. R319-20. At around 2:46 p.m., Floyd was riding his bicycle past the gas station when he encountered defendant, whom he had known for around three years. R320-22. He saw defendant pull out a gun and was shot in the back as he attempted to flee. R322. He spent the next two months in the hospital. R323. On August 30, 2010, while still in the hospital, Floyd identified defendant from a photo array as the person who had shot him. R323-25.

While Floyd was in surgery, a bullet was recovered from his abdomen. R454. Bullets were also recovered from Thompson's abdomen during surgery, R456, and at Goss's autopsy, R445. Peter Brennan, an expert in firearm identification, R458-66, compared markings on the bullets and determined that they had been fired from the same gun, R467, 484, 488-91.

Ricky Whitehead testified that he was a convicted felon and awaiting trial for armed robbery in the Cook County Jail. R375-76. In 2012, defendant handed him a sheet of paper with the names, dates of birth, and addresses of Pepsy Gulley, Dashanea Johnson, and Corey Thompson. R378-82. Defendant told Whitehead that three people had witnessed his crime, and he wanted them "taken care of," so he could go home. R382-85. Defendant later added Dortha Simms to the list. R385. At the time, Whitehead was a "general" with the P Stones street gang, and he lived in the same neighborhood as defendant and the victims. R393-94. Whitehead reported defendant's request to correctional officers. R377.

The jury found defendant guilty of first degree murder, attempted first degree murder, and aggravated battery with a firearm. CI4-6.

B. Under a mandatory scheme, the trial court sentences defendant to consecutive prison terms of 55 and 45 years, with no eligibility for parole.

Under the sentencing scheme in effect at the time of defendant's crimes and his initial sentencing, first degree murder carried a sentencing

range of 20 to 60 years, *see* 730 ILCS 5/5-4.5-20(a) (2010); and attempted murder carried a sentencing range of 6 to 20 years, *see* 720 ILCS 5/8-4(c)(1); 730 ILCS 5/5-4.5-25(a). Mandatory firearm enhancements applied to both sentences: 25 years to life applied to the murder sentence, *see* 730 ILCS 5/5-8-1(a)(1)(d)(iii) (2010) (25-year to life enhancement for personal discharge of a firearm resulting in death), and 20 years applied to the attempted murder sentence, *see* 720 ILCS 5/8-4(c)(1)(C) (2010) (20-year enhancement for personal discharge of firearm). The law required these sentences to run consecutively. *See* 730 ILCS 5/5-8-4(d)(1).

In pronouncing sentence, the trial court commented, “I can’t remember a case as horrible as this one. Shoot one guy, weeks later shoot two guys, kill one and try and get the witnesses killed later so you get a chance to go home[.]” A81-82. The court opined, based on these repeated actions, that “Pharaoh Morris has a malignant heart.” A86. The court sentenced defendant to 55 years in prison for the murder of Goss and 45 years for the attempted murder of Thompson, to be served consecutively. A76, 86-87.

C. The appellate court vacates the judgment, concluding that defendant’s mandatory, de facto life sentence violates the Eighth Amendment.

On appeal, “[d]efendant argue[d] that his sentence of 100 years’ imprisonment [was] a *de facto* life sentence” imposed under “an unconstitutional sentencing scheme” that violated *Miller v. Alabama*, 567

U.S. 460 (2012), because “the trial court was precluded from considering his youthful characteristics.” A68, ¶ 19.

The appellate court agreed, observing that “[t]he Supreme Court held in *Miller* that the eighth amendment to the United States Constitution ‘forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile offenders.’” A69, ¶ 21 (quoting *Miller*, 567 U.S. at 479). Under *Miller*, “[o]nly the worst of youth, those that are deemed ‘permanently incorrigible,’ should be considered for life without parole.” *Id.*, ¶ 22 (quoting *Miller*, 567 U.S. at 477). A scheme imposing a “[m]andatory punishment” of life without parole “precludes consideration of youth’s ‘hallmark features — among them, immaturity, impetuosity, and failure to appreciate risks and consequences.’” A69-70, ¶ 22 (quoting *Miller*, 567 U.S. at 477). Stated differently, “all juveniles must have an opportunity to prove they fall within a class of defendants that, because of their status as youths and their attendant circumstances, makes a sentence of life without parole unconstitutional.” A70, ¶ 22.

Defendant’s combined sentences of 100 years in prison constituted a de facto life sentence without parole and thus came within *Miller*’s rule. *Id.*, ¶ 23. The appellate court observed that “[d]efendant is required to serve 93.25 years of this sentence, meaning the earliest he is eligible for release will be at the age of 109 years.” A71, ¶ 30. And “[t]his *de facto* life sentence

is improper because the trial court did not meaningfully consider defendant's youth and attendant characteristics, as well as their effect on him, as outlined in *Miller* and [*Montgomery v. Louisiana*, 577 U.S. 190 (2016)], before sentencing him.” *Id.*

The appellate court stressed that “*Miller* did not foreclose a severe sentence for a juvenile ‘whose crime reflects irreparable corruption.’” A72, ¶ 33 (quoting *Miller*, 567 U.S. at 479). “Whether this is such an uncommon case will be determined at a resentencing hearing conducted in accordance with the ruling in this case.” *Id.* The court stressed that “this decision should not be interpreted as a limitation on the discretion given to the sentencing judge when imposing the sentence it deems appropriate after consideration [of] all of the sentencing factors[.]” A74, ¶ 39.

Defendant would be resentenced under a newly enacted scheme in which the firearm enhancements were discretionary as applied to a juvenile offender, *id.*, ¶ 37, so the appellate court remanded for “resentencing in accordance with” 730 ILCS 5/5-4.5-105 (2015), A75, ¶ 44.

D. Under a newly enacted discretionary scheme, the trial court sentences defendant to consecutive prison terms of 55 years and 45 years, with eligibility for parole after 20 years.

Further legislative change ensued: after the case was remanded, the General Assembly enacted a statute providing that any offender who was younger than 21 “at the time of the commission of first degree murder who is

sentenced on or after June 1, 2019 . . . shall be eligible for parole review by the Prisoner Review Board after serving 20 years or more of his or her sentence or sentences.” 730 ILCS 5/5-4.5-115(b) (2020). The trial court noted the enactment of the new juvenile parole statute, observing that under *Miller*, “you can’t give a juvenile a life sentence without parole,” but if “[t]he man has a right to get parole, that changes it altogether.” R1036-37. The parties agreed that the new statute applied to defendant. See R1055-56. The trial court then observed that *Miller* and related cases “talk about a sentence of life without parole” and asked, “if he’s eligible for parole do those cases apply at all?” R1055.

The prosecutor argued that defendant’s parole eligibility meant that any sentence the trial court imposed, regardless of length, would not be a life sentence for purposes of *Miller*. R1055-57. Defense counsel stated, “I still think, though, that . . . it would be mandatory that this court take into consideration his youth at the time of sentencing,” and the court agreed that “we’ll have the hearing.” R1056-58.

The prosecutor then stressed that even without parole eligibility, defendant could be resentenced to 100 years under the appellate court’s reasoning. R1058-59. The trial court agreed, noting that “[i]t was a soft reversal,” and “[t]he Appellate Court did not say the sentence was wrong.” R1059-60. The trial court recalled the facts of the case, which included the

“[a]ttempt murder of one guy [Marvin Floyd]” before the charged offenses; “a week later the murder of another guy [D’Antonio Goss], attempt murder of the guy with the victim of the murder [Corey Thompson]”; and then “while in custody entreating some guy in jail, I want the witness taken care of which to me means I want them knocked off.” R1059. Defense counsel again observed that he intended to present argument concerning defendant’s youthful characteristics in mitigation, and the trial court reiterated, “I’ll listen to it.” R1060.

The parties submitted a joint memorandum, C331-32, agreeing that the firearm enhancements were discretionary, C331, and that defendant should be sentenced under the new statute governing juvenile offenders, C333 (citing 730 ILCS 5/5-4.5-105). Among other youth-related factors (all listed in the memorandum), the new statute instructed the trial court to consider defendant’s “age, impetuosity, and level of maturity at the time of the offense”; “whether [defendant] was subject to outside pressure, including peer pressure, familial pressure, or negative influences”; defendant’s “family, home environment, educational and social background”; defendant’s “potential for rehabilitation or evidence of rehabilitation”; and defendant’s “degree of participation and specific role in the offense, including the level of planning by the defendant before the offense.” *Id.*

At the resentencing hearing in November 2021, the People presented evidence that while in custody of the Department of Corrections, defendant had twice been convicted of the aggravated battery of a correctional officer and sentenced to concurrent 3.5-year prison terms. R1129-30. He had also been disciplined for stomping on a fellow inmate's head until warning shots were fired; the inmate was airlifted for medical treatment. R1130-31. Finally, defendant was facing another charge of aggravated battery of a correctional officer for an incident in which he punched a guard in the face and knocked him to the ground. R1131-32.

In pronouncing sentence, the trial court emphasized defendant's extensive history of violence: defendant shot Goss and Thompson just weeks after he shot Floyd and while he was on juvenile probation for an aggravated robbery; he solicited the murder of multiple witnesses while awaiting trial on the charges in this case; and prior to resentencing, he attacked correctional officers and an inmate. A24-25, 27-31.

In mitigation, the court highlighted that defendant was 16 when he committed the offenses, his parents had been incarcerated, and his mother had neglected him and allowed him to be sexually abused. A32-33, 37, 49. Defendant had attended special education classes and began drinking alcohol at age 9 and smoking marijuana at age 11. A34-35. The court also considered that defendant had been diagnosed with bipolar disorder but was

not taking medication, was depressed, had been hospitalized for suicide attempts, and had received therapy for anger management. *Id.*

The court carefully analyzed whether the youth-related mitigation factors applied to defendant. A47-52. It observed that defendant's crimes were not the result of peer pressure: "[a]ll of these crimes were done by Pharoah Morris when he was alone," and "[t]here was nobody there to influence Pharoah Morris." A24-25, 48. His crimes were not the result of youthful impetuosity, as exemplified by defendant's attempt to solicit the murders of the witnesses against him: "a conscientious, thought-out thing on Pharoah Morris's part." A25, 47-48. Defendant had shown no sign of rehabilitation in the years since his original sentencing, but had continued "with his reign of terror." A28-29, 49. The convictions and pending charge for aggravated battery of a correctional officer "show[] that Morris can't get along with anybody, on the street, in the Department of Corrections, in the county jail, anywhere." A29. And his continued acts of violence "show[] you he has no remorse." A52.

After considering all the factors and evidence, the trial court found that "[t]o say that Morris is dangerous would be an understatement. He's already killed one person but for the grace of God it would've been two more, but for the grace of God it would've been way more if that note did not get to the authorities in time" to prevent the murders of the witnesses against him.

A31. The court reasoned that defendant “committed crimes after the murder in this case” and “so certainly the sentence will not be any less.” A53.

Thus, the court sentenced defendant to consecutive prison terms of 55 years for Goss’s murder and 45 years for Thompson’s attempted murder, with eligibility for parole after serving 20 years. A15, 54.

E. The appellate court vacates the amended judgment and remands for resentencing before a different judge.

Defendant appealed the new sentencing judgment, raising a single claim that echoed his first direct appeal: his “100-year sentence . . . is an unconstitutional de facto life sentence” and violates the Eighth Amendment “where the trial court did not find that [defendant] was permanently incorrigible, and where his youth was not properly considered.” Def. App. Ct. Br. 20. Defendant argued that the sentences should be vacated due to this constitutional violation. *Id.* at 37. In addition, defendant requested that the case be assigned to a new judge on remand, asserting “that, because of the new parole statute, the court has made up its mind to reimpose the same sentence, and a remand to the same court will yield the same result for Pharoah despite any evidence he presents in mitigation.” *Id.* at 37-39. He asked for “a different judge, thereby removing any suggestion of unfairness from the new sentencing.” *Id.* at 38-39.

The appellate court observed that defendant’s Eighth Amendment claim was a nonstarter because his sentence was discretionary. A11, ¶ 55

(citing *People v. Wilson*, 2023 IL 127666, ¶ 44). However, the appellate court nevertheless vacated defendant’s sentences, on what it characterized as “nonconstitutional grounds.” *Id.*, ¶ 57. It found that “the sentencing judge was predisposed to impose the sentence on remand,” *id.*, ¶ 58 (capitalization removed), and “therefore failed to give fair consideration to the statutory youth-based sentencing factors or to the full range of sentences now available under the new sentencing scheme for defendants who committed crimes as juveniles,” A2, ¶ 4. The court directed a substitution of judge on remand because “the interests of justice would be furthered by” allowing the resentencing to occur before a judge who “will properly apply the current law with no predisposition based on what sentence might have been appropriate under a sentencing structure that is no longer in place.” A12-13, ¶ 64.

STANDARDS OF REVIEW

This Court reviews de novo whether the appellate court exceeded its authority by vacating defendant’s sentences, *People v. Webster*, 2023 IL 128428, ¶ 16, or ordering a substitution of judge, *People v. Class*, 2025 IL 129695, ¶ 27.

Similarly, this Court reviews de novo constitutional claims that defendant’s sentences violate the Eighth Amendment and that the trial court was biased. *People v. Spencer*, 2025 IL 130015, ¶ 25 (constitutional challenge to sentence reviewed de novo); *see also People v. Welch*, 2025 IL

App (1st) 231116, ¶ 41 (judicial bias at sentencing reviewed de novo) (citing *People v. McLaurin*, 235 Ill. 2d 478, 485 (2009)).

Outside of constitutional challenges, this Court reviews the propriety of a sentence within statutory limits for an abuse of discretion. *People v. Alexander*, 239 Ill. 2d 205, 212 (2010).

ARGUMENT

I. The Appellate Court Exceeded Its Authority by Vacating Defendant’s Sentences Where It Did Not Find, and Defendant Failed to Show, That the Sentences Were Unconstitutional or an Abuse of Discretion.

“[A] court of review is without authority to vacate and remand a defendant’s criminal sentence absent a finding of error or a finding of an abuse of discretion by the trial judge.” *Webster*, 2023 IL 128428, ¶ 28. Here, the appellate court exceeded its authority because it did not find any error recognized in the law as a basis for vacating a sentence, but instead disagreed with the trial court’s reasoning and the weight it assigned to youth-related factors. Although the appellate court’s decision fails on its own terms and should be reversed, the People further note, for good measure, that the record does not support vacating defendant’s sentences based on the Eighth Amendment claim he raised or based on a biased judge or an abuse of discretion.

A. The appellate court improperly vacated defendant's sentences because it disagreed with the weight the trial court assigned to youth-related factors.

“Illinois courts have long recognized that the imposition of a sentence is left to the sound discretion of the trial court and will not be altered upon review absent an abuse of that discretion.” *People v. Etherton*, 2017 IL App (5th) 140427, ¶ 15 (citing *People v. Perruquet*, 68 Ill. 2d 149, 153 (1977)).

“The hallmark of [such] deferential review is that although the reviewing court might have viewed the matter differently, it lacks the authority to change the result on appeal.” *People v. Coleman*, 183 Ill. 2d 366, 388 (1998).

Typically, the trial judge will have heard the trial evidence, as the law mandates that “[t]he judge who presided at the trial or the judge who accepted the plea of guilty shall impose the sentence unless he is no longer sitting as a judge in that court.” 730 ILCS 5/5-4-1(b). As a result, this Court has long stressed that “the trial judge is normally in a better position to determine the punishment to be imposed than the courts of review.”

Perruquet, 68 Ill. 2d at 154. “A reasoned judgment as to the proper sentence to be imposed must be based upon the particular circumstances of each individual case,” with consideration of “the defendant’s credibility, demeanor, general moral character, mentality, social environment, habits, and age.”

Id. “The trial judge, in the course of the trial and the sentencing hearing, has an opportunity to consider these factors ‘which is superior to that

afforded by the cold record in this court.” *Id.* (quoting *People v. Morgan*, 59 Ill. 2d 276, 282 (1974)).

Accordingly, this Court has repeatedly reaffirmed the principle that an appellate court may vacate a sentence only when the sentence amounted to an abuse of discretion or is unlawful. *Webster*, 2023 IL 128428, ¶ 28; *see also People v. Alexander*, 239 Ill. 2d 205, 212 (2010) (“A reviewing court may not alter a defendant’s sentence absent an abuse of discretion by the trial court.”); *People v. Jones*, 168 Ill. 2d 367, 374 (1995) (“[W]e conclude a court of review has the power to reduce a defendant’s sentence on appeal once it has been determined that the trial court’s sentencing decision was unlawful or an abuse of discretion.”); *Perruquet*, 68 Ill. 2d at 153 (“[O]ur decisions have firmly established that the imposition of a sentence is a matter of judicial discretion and that, absent an abuse of this discretion, the sentence of the trial court may not be altered upon review.”).

“A sentence will be deemed an abuse of discretion [only] where the sentence 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 (quoting *People v. Stacey*, 193 Ill. 2d 203, 210 (2000)). The appellate court may not “substitute[] its own judgment for that of the trial court because it would have weighed the factors differently.” *Id.* at 214; *see also, e.g., People v. Streit*, 142 Ill. 2d 13, 19, 22 (1991) (reversing appellate

court’s vacatur of sentences based on disagreement with trial court’s decision to impose prison term). Nor may an appellate court require resentencing based “upon perceived principles of equity,” in the absence of any “substantive finding of error.” *Webster*, 2023 IL 128428, ¶ 21. “[A] constitutional sentence, devoid of error and resulting from a trial judge’s proper exercise of discretion, shall be affirmed on review.” *Id.*, ¶ 32.

The appellate court here did not find any substantive error in defendant’s sentences. In particular, the court did not find that defendant’s 55-year and 45-year sentences were disproportionate to his offenses of murder and attempted murder.

Rather, in explaining its decision, the court “agree[d] with [defendant] that the record as a whole demonstrates that the sentencing judge was preoccupied with whether he could simply reimpose the same 100-year sentence on remand.” A21, ¶ 63. The appellate court cited occasions leading up to the resentencing hearing at which the trial court had asked the parties for guidance about how defendant’s parole eligibility impacted the *Miller* analysis. *Id.* In short, the appellate court criticized the trial court — not for its considered sentence — but for aspects of its reasoning, and indeed for reasoning that took place outside of the resentencing hearing itself. *Id.*

Then, even though the trial court had considered the statutory youth-related factors at the resentencing hearing, the appellate court rejected its

weighing of those factors because the trial court “seemed to view the youth-based sentencing factors, not as considerations meant to assist him in choosing from among the whole range of possible sentences but rather as ‘certain issues you have to deal with in order to make a life sentence work.’” *Id.* The appellate court believed that “[t]his results-driven approach is not what the statute contemplates and was an abuse of discretion.” *Id.*

In effect, then, the appellate court vacated defendant’s sentences because it believed the trial court did not properly weigh the statutorily mandated youth-related factors. But the appellate court may not substitute its judgment for that of the trial court merely because it would have weighed youth-related sentencing factors differently. *See People v. Anderson*, 2024 IL App (1st) 220864, ¶¶ 17-27 (where trial court expressly considered and weighed statutory youth-related factors, appellate court was precluded from reweighing factors); *People v. Kendrick*, 2023 IL App (3d) 200127, ¶¶ 47-53 (same); *People v. Elliott*, 2022 IL App (1st) 192294, ¶¶ 57-59 (same). Nor was it error for the trial court to reference its prior sentencing decision, or to consider that the availability of parole provided defendant with a meaningful opportunity for release if he was rehabilitated. *See Anderson*, 2024 IL App (1st) 220864, ¶ 25.

As support for its approach, the appellate court cited *People v. Bolyard*, 61 Ill. 2d 583, 586-87 (1975). A20, ¶ 60. But, in *Bolyard*, the trial court

expressly refused to consider a sentence of probation that was statutorily authorized because it disagreed with the legislative policy of granting probation to a class of offenders. Here, the trial court did not express disagreement with the sentencing options afforded to it and fully exercised its discretion to sentence defendant.

The appellate court may have disagreed with that exercise of discretion, but such disagreement provided it with no basis to vacate the sentences and order resentencing.

B. The appellate court was not justified in vacating defendant's sentences because he showed neither constitutional error nor an abuse of discretion.

The appellate court's decision fails on its own terms: the appellate court exceeded its authority because it failed to identify a lawful basis for vacating defendant's sentences. But, in any event, defendant can establish none of the hypothetical bases that would justify vacatur.

Defendant asserted a single claim in the appellate court: that his sentences violated the Eighth Amendment. The appellate court correctly recognized that this claim failed. A11, ¶ 55. Nor would the appellate court be justified in vacating defendant's sentences on either of two remaining hypothetical bases that could support resentencing: (1) the trial court was biased; or (2) the trial court abused its discretion.

1. Defendant's sentences did not violate the Eighth Amendment, the sole claim he raised on appeal.

Miller v. Alabama held that “mandatory life-without-parole sentences for juveniles violate the Eighth Amendment.” 567 U.S. at 470. Defendant’s sentences do not violate *Miller* for two separate reasons. First, defendant’s sentences were not “mandatory,” *id.*, but discretionary. Discretionary sentences, even life sentences, imposed under a scheme that allows for consideration of an offender’s youth do not violate the Eighth Amendment. *Jones v. Mississippi*, 593 U.S. 98, 106 (2021); *Wilson*, 2023 IL 127666, ¶ 40; *People v. Jones*, 2021 IL 126432, ¶¶ 27-28. Second, defendant is not serving a “life-without-parole sentence[],” *Miller*, 567 U.S. at 470, but may apply for parole after 20 years, *see* 730 ILCS 5/5-4.5-115(b) (2020); *People v. Spencer*, 2025 IL 130015, ¶ 40 (because of parole statute, cumulative 100-year sentence was not life sentence for purposes of *Miller*). For both reasons, defendant was not entitled to relief on the sole claim he raised in the appellate court.

2. Defendant did not argue, much less show, that the trial court was biased.

Defendant did not ask the appellate court to vacate his sentences because the trial court was biased, so this Court should deem any such argument forfeited. *See People v. Williams*, 235 Ill. 2d 286, 298 (2009) (“Where the appellant in the appellate court fails to raise an issue in that

court, this court will not address it.”). But defendant did request reassignment to a new judge on remand (which the appellate court granted), and if this ancillary request preserved a claim that the trial court was biased, then that claim lacks merit.

“[T]he Due Process Clause clearly requires a fair trial in a fair tribunal,” presided over by “a judge with no actual bias against the defendant or interest in the outcome of his particular case.” *Bracy v. Gramley*, 520 U.S. 899, 904-05 (1997) (internal quotation marks omitted). “A sentencing hearing is fundamentally unfair — and due process is denied — when the proceeding is affected by judicial bias,” even if “the ultimate sentence imposed was within the statutory limits.” *People v. Rademacher*, 2016 IL App (3d) 130881, ¶ 47.

But a due process claim faces a high bar, for “[a] trial judge is presumed to be impartial, and the burden of overcoming this presumption rests on the party making the charge of prejudice.” *Eychaner v. Gross*, 202 Ill. 2d 228, 280 (2002). “To conclude that a judge is disqualified because of prejudice is not, of course, a judgment to be lightly made.” *Id.* (quoting *People v. Vance*, 76 Ill. 2d 171, 179 (1979)). To satisfy its burden, “the party making the charge of prejudice must present evidence of prejudicial trial conduct and evidence of the judge’s personal bias.” *Id.* An adverse ruling does not demonstrate prejudice. *Id.* Instead, the party seeking substitution

of judge must demonstrate “something more,” such as “animosity, hostility, ill will, or distrust towards this defendant.” *Id.* at 181.

Importantly, “opinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for” disqualifying the judge. *Id.* (quoting *Liteky v. United States*, 510 U.S. 540, 555 (1994)). In a criminal case, “[t]he judge who presides at a trial may, upon completion of the evidence, be exceedingly ill disposed towards the defendant, who has been shown to be a thoroughly reprehensible person.” *Liteky*, 510 U.S. at 550-51. But this “knowledge and the opinion it produced were properly and necessarily acquired in the course of the proceedings.” *Id.* And they are “necessary to completion of the judge’s task,” *id.*, for it is a trial judge’s familiarity with the trial evidence that renders him ideally situated to impose sentence, *Perruquet*, 68 Ill. 2d at 154. Thus, “harsh criticism, based on the particular facts of a defendant’s case, does not constitute any sort of evidence of prejudice derived from personal bias.” *Rademacher*, 2016 IL App (3d) 130881, ¶ 48.

Here, the trial judge had presided over defendant’s trial and original sentencing and condemned the facts of the case in strong terms. Nevertheless, the court repeatedly signaled that it would listen with an open mind to any information presented in mitigation and would fully consider the

youth-related factors listed in the statute, and the record shows that it did so. Defendant therefore failed to satisfy his burden of showing judicial bias.

3. Defendant did not argue, much less show, that the trial court abused its discretion.

Finally, defendant failed to demonstrate that the trial court abused its discretion at sentencing. This issue, too, should be deemed forfeited, because defendant did not argue to the appellate court that the trial court had abused its discretion. *See Williams*, 235 Ill. 2d at 298. However, because the appellate court purported to find an abuse of discretion, A21, ¶ 63, the People address that issue here.

A sentence constitutes 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 (quoting *Stacey*, 193 Ill. 2d at 210). Consistent with the standard’s focus on the “nature of the offense,” the trial court appropriately placed great weight on the seriousness of defendant’s crimes. It is well-established that “[a] defendant’s rehabilitative potential . . . is not entitled to greater weight than the seriousness of the offense.” *Id.* at 214. To the contrary, as the appellate court has repeatedly stressed, the “seriousness of the crime committed is considered the most important factor in fashioning an appropriate sentence.” *People v. Willis*, 2013 IL App (1st) 110233, ¶ 123 (quoting *People v. Cox*, 377 Ill. App. 3d 690, 709 (1st Dist. 2007)); *see also, e.g., People v. Hussain*, 2024 IL

App (1st) 230471, ¶ 44 (“Still, the seriousness of the offense is the most important factor in determining an appropriate sentence.”); *Kendrick*, 2023 IL App (3d) 200127, ¶ 50 (“The seriousness of the crime is the most important factor in determining an appropriate sentence.” (internal quotation marks omitted)); *People v. Decatur*, 2015 IL App (1st) 130231, ¶ 12 (“Importantly, it is the seriousness of the crime — rather than the presence of mitigating factors — that is the most important factor in determining an appropriate sentence.”); *People v. Harmon*, 2015 IL App (1st) 122345, ¶ 123 (“Because the most important sentencing factor is the seriousness of the offense, the court is not required to give greater weight to mitigating factors than to the seriousness of the offense, nor does the presence of mitigating factors either require a minimum sentence or preclude a maximum sentence.”).

Defendant shot Goss and Thompson when they were surrounded by other students walking home from school at the end of the school day. Goss’s life was ended, and “[t]here is a line ‘between homicide and other serious violent offenses against the individual.’” *Graham v. Florida*, 560 U.S. 48, 69 (2010) (quoting *Kennedy v. Louisiana*, 554 U.S. 407, 438 (2008)). Murder thus stands alone “in terms of moral depravity and of the injury to the person and to the public.” *Id.* (quoting *Kennedy*, 554 U.S. at 438). And because of its severity, a sentence of natural life may be imposed for murder, even if the offender is a juvenile. *Jones*, 2021 IL 126432, ¶¶ 27-28.

The attempted murder of Thompson was also serious and warranted a severe sentence. *See People v. Hilliard*, 2023 IL 128186, ¶ 40 (holding that 40-year sentence for attempted murder committed by 18-year-old was not disproportionate for purposes of Illinois Constitution’s penalties provision). Defendant bore moral culpability, since he *intended* to kill Thompson, and Thompson survived only after spending weeks in the hospital. R278, R454. Through both of these crimes — as well as the shooting of Floyd one week earlier and defendant’s attempt to persuade a fellow detainee to murder the witnesses against him — defendant demonstrated indifference to the value of human life and caused or threatened serious harm to many people.

Defendant’s sentences (and particularly his sentence for attempted murder) were lengthened significantly through application of firearm enhancements. The trial court acted well within its discretion to impose the enhancements in this case. The General Assembly passed the firearm enhancements to deter the use of firearms in the commission of offenses, given that “the presence of firearms during an offense poses an extreme danger to both the intended victims and innocent bystanders.” *Hilliard*, 2023 IL 128186, ¶ 22. Defendant’s personal discharge of a firearm posed a danger to the many students then walking home from school, and fits squarely within the serious conduct, degree of harm, and societal dangers

that the General Assembly sought to address when it enacted the enhanced penalties for crimes committed with firearms.

The trial court also appropriately gave mitigating weight to defendant's learning disability, mental illness, and the abuse and neglect he suffered as a child. And the trial court fully considered the remaining statutorily mandated youth-related factors and determined, correctly, that many of them did not apply to defendant, as his crimes were not the result of peer pressure and were premeditated. Further, the trial court correctly observed that defendant's lack of rehabilitation and remorse were confirmed by his continued commission of violent crimes while in prison. Because the trial court weighed the appropriate youth-related factors, defendant cannot show that its sentence was an abuse of discretion, regardless of whether a reviewing court would weigh those factors differently. *See Anderson*, 2024 IL App (1st) 220864, ¶¶ 17-27; *Kendrick*, 2023 IL App (3d) 200127, ¶¶ 47-53; *Elliott*, 2022 IL App (1st) 192294, ¶¶ 57-59.

In sum, the trial court acted well within its discretion to impose severe sentences based on the severity of defendant's crimes and his demonstrated lack of rehabilitation.

II. The Appellate Court Exceeded Its Authority by Ordering a Substitution of Judge on Remand.

In the absence of any cognizable error, the appellate court lacked the authority to vacate defendant's sentences and order resentencing before a

different judge. *Webster*, 2023 IL 128428, ¶ 32. But even if this Court were to disagree and affirm the judgment vacating defendant’s sentences, it should find the reassignment to be in error because defendant failed to show bias.

Indeed, as noted, it is essential, and statutorily mandated, that sentencing take place before the trial judge. 730 ILCS 5/5-4-1(b) (“The judge who presided at the trial or the judge who accepted the plea of guilty shall impose the sentence unless he is no longer sitting as a judge in that court.”). Moreover, the statute governing substitutions of judges in criminal cases allows for such relief only in the case of bias against the defendant or the State. *See* 725 ILCS 5/114-5 (allowing substitutions “for cause”).

Though defendant requested substitution of judge on appeal, the same showing was required. An appellate court’s “authority to ‘modify any or all of the proceedings subsequent to . . . the judgment or order from which the appeal is taken’ includes the authority to modify the subsequent proceedings by directing that a new judge be assigned on remand.” *Class*, 2025 IL 129695, ¶ 31 (quoting Ill. S. Ct. R. 615(b)(2)). But, as this Court has made clear, an appellate court’s substitution of judge must be premised on a finding of bias. *See id.*, ¶ 37 (appellate court may “order judicial reassignment in subsequent postconviction proceedings,” but “only when the record on appeal clearly reveals bias, the probability of bias, or prejudice on the part of the trial judge”); *Raintree Homes v. Vill. of Long Grove*, 209 Ill. 2d 248, 262-63

(2004) (declining substitution of judge in civil case because “[a] trial judge is presumed to be impartial, and the burden of overcoming this presumption rests on the party making the charge of prejudice,” and “plaintiffs have not met their burden because the only grounds alleged are the trial judge’s prior adverse rulings against them”); *Eychaner*, 202 Ill. 2d at 280 (similar).

Here, as discussed, defendant cannot show that the trial judge was biased against him. *See supra* § I.B.2. Accordingly, he was not entitled to a substitution of judge on remand.

CONCLUSION

This Court should reverse the appellate court’s judgment in its entirety and affirm the circuit court’s judgment; or, alternatively, this Court should vacate the portion of the appellate court’s judgment ordering a substitution of judge.

April 10, 2026

Respectfully submitted,

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RULE 341(c) CERTIFICATE

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, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 29 pages.

/s/ Erin M. O'Connell
ERIN M. O'CONNELL
Assistant Attorney General

APPENDIX

Table of Contents of Appendix

<u>Document</u>	<u>Pages</u>
<i>People v. Morris</i> , 2023 IL App (1st) 220035.....	A1-13
Notice of appeal, <i>People v. Morris</i> , No. 10 CR 17983 (filed Dec. 15, 2021).....	A14
Amended sentencing judgment, <i>People v. Morris</i> , No. 10 CR 17983 (Ill. Cir. Ct. Dec. 15, 2021)	A15
Resentencing pronouncement, <i>People v. Morris</i> , No. 10 CR 17983 (Ill. Cir. Ct. Dec. 15, 2021)	A16-64
<i>People v. Morris</i> , 2017 IL App (1st) 141117	A65-75
Original sentencing judgment, <i>People v. Morris</i> , No. 10 CR 17983 (Ill. Cir. Ct. Mar. 31, 2014).....	A76
Original sentence pronouncement, <i>People v. Morris</i> , No. 10 CR 17983 (Ill. Cir. Ct. Mar. 31, 2014).....	A77-89
Table of contents of record on appeal.....	A90-98

Illinois Official Reports

Appellate Court



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People v. Morris, 2023 IL App (1st) 220035

Appellate Court
Caption

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v.
PHAROAH MORRIS, Defendant-Appellant.

District & No.

First District, Sixth Division
No. 1-22-0035

Filed
Rehearing denied

June 30, 2023
August 1, 2023

Decision Under
Review

Appeal from the Circuit Court of Cook County, No. 10-CR-17983; the
Hon. Stanley J. Sacks, Judge, presiding.

Judgment

Reversed and remanded with directions.

Counsel on
Appeal

James E. Chadd, Douglas R. Hoff, and Melinda Grace Palacio, of State
Appellate Defender's Office, of Chicago, for appellant.

Kimberly M. Foxx, State's Attorney, of Chicago (Enrique Abraham,
Douglas P. Harvath, and Margaret M. Smith, Assistant State's
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Panel

PRESIDING JUSTICE MIKVA delivered the judgment of the court,
with opinion.

Justices C.A. Walker and Tailor concurred in the judgment and
opinion.

OPINION

¶ 1 This case is now before us for a second time on direct appeal with regard to Pharoah Morris's sentence. A jury found Pharoah guilty of murder and attempted murder—offenses committed when he was just 16 years old—and he was sentenced to a total of 100 years in prison. Pharoah's original sentencing hearing occurred after the United States Supreme Court held in *Miller v. Alabama*, 567 U.S. 460, 465 (2012), that mandatory life sentences without parole for juvenile offenders violate the eighth amendment to the United States Constitution (U.S. Const., amend. VIII) but before our own supreme court extended that holding, in *People v. Reyes*, 2016 IL 119271, ¶ 9, to lengthy term-of-years sentences that are *de facto* life sentences. Although the trial court commented on Pharoah's youth and upbringing at sentencing, we concluded on his first direct appeal that those observations were not the same as a full consideration of the special characteristics of youth identified by the Court in *Miller*. *People v. Morris*, 2017 IL App (1st) 141117, ¶¶ 26, 32. We vacated Pharoah's sentence and remanded his case to the trial court for resentencing. *Id.* ¶ 33.

¶ 2 A new statutory sentencing scheme applied on remand. Under section 5-4.5-105 of the Unified Code of Corrections (Code), courts are now required to consider the youth-based sentencing factors set out in *Miller* whenever an individual under the age of 18 is sentenced, and firearm enhancements are discretionary, rather than mandatory, for such individuals. 730 ILCS 5/5-4.5-105 (West 2020). Pursuant to section 5-4.5-115(b) of the Code, individuals who were under the age of 21 at the time of their offenses are also now eligible for parole before serving their full sentences. *Id.* § 5-4.5-115(b). Following additional briefing, the filing of an updated presentence investigation (PSI) report, and a new sentencing hearing, the trial court imposed the same 100-year sentence that it had before. Pharoah again appealed.

¶ 3 The parties initially focused their briefing on whether the constitutional protections afforded by *Miller* and its progeny are still implicated when, as here, a juvenile offender will have the opportunity to petition for parole within 40 years of being incarcerated. In addition, during the pendency of this appeal, the Illinois Supreme Court issued its opinion in *People v. Wilson*, 2023 IL 127666, ¶¶ 29, 41-42, overruling its holding in *People v. Holman*, 2017 IL 120655, ¶ 40, that *Miller* applied to discretionary, as well as mandatory, life sentences. The parties filed motions, after briefing was completed but before argument, addressing the impact of *Wilson* on Pharoah's constitutional claims.

¶ 4 We need not and will not reach these constitutional questions, however, where there is a nonconstitutional basis for vacating Pharoah's sentence. The record here reflects that the sentencing judge was predisposed on remand to impose the same 100-year sentence he had given Pharoah initially. The judge therefore failed to give fair consideration to the statutory youth-based sentencing factors or to the full range of sentences now available under the new sentencing scheme for defendants who committed crimes as juveniles. Accordingly, we vacate Pharoah's sentence and remand for resentencing.

¶ 5 I. BACKGROUND

¶ 6 A. Trial and Initial Sentencing

¶ 7 Pharoah was charged with the first degree murder of DeAntonio Goss and the attempted murder and aggravated battery with a firearm of Corey Thompson. We summarized the

evidence presented at trial in some detail in our prior decision on direct appeal. *Morris*, 2017 IL App (1st) 141117, ¶¶ 3-14. We revisit it again here only briefly.

¶ 8 Corey Thompson testified that on September 8, 2010, he was walking home from Bowen High School with a group of friends, including DeAntonio Goss, when they came upon Pharoah and his friend Lacy Sheppard. Pharoah pulled a gun on them, saying, “[t]his is what y’all want, this is what y’all going to get.” Seeing the gun, Corey and DeAntonio ran in different directions. Corey felt something hit him in his buttocks. He fell down but picked himself up and began running again. When he could no longer keep going, he lay down in the street. He heard DeAntonio looking for him, saying, “CJ, where are you, where are you, are you okay?” Corey then saw Pharoah heading in the direction of DeAntonio’s voice and heard a few more gunshots before he lost consciousness. Corey was in the hospital for three weeks and underwent two surgeries as a result of his injuries.

¶ 9 Two of the students walking with Corey and DeAntonio also witnessed the shooting and identified Pharoah from in-person lineups.

¶ 10 To show identity and the absence of mistake, the State was allowed to present evidence of another shooting that took place two weeks before the one at issue in this case. Marvin Floyd testified that on the afternoon of August 23, 2010, he rode his bike to a gas station near his home and saw Pharoah there, with what appeared to be a gun under his pants. Marvin fled on his bike but was shot in the back. He spent two months in the hospital and also underwent two surgeries.

¶ 11 A bullet recovered from Marvin’s body matched a bullet recovered from DeAntonio’s body, and it was determined that the bullets were fired from the same gun.

¶ 12 The State also introduced evidence that Pharoah had taken steps while incarcerated to prevent the State from calling its witnesses at trial. Ricky Whitehead, Pharoah’s cellmate at the Cook County jail, testified that Pharoah gave him a list of the State’s witnesses, including Corey Thompson, and asked if Mr. Whitehead could have those individuals “taken care of.” Mr. Whitehead understood this to mean that Pharoah wanted the witnesses killed. He showed the list to a prison official before returning it to Pharoah.

¶ 13 Eric Bucio, an instructor at the jail complex, testified that he was assigned to investigate the matter and found the list among the personal items Pharoah kept in his jail cell.

¶ 14 The State rested, the defense presented no evidence, and after deliberating, the jury found Pharoah guilty on all counts.

¶ 15 The PSI report revealed the following. Pharoah’s father was incarcerated in another state. Pharoah had begun drinking alcohol at age 9 and using marijuana at age 11. By the age of 13, he was drinking multiple glasses of hard liquor per day. Pharoah had started seeing a psychiatrist at age 12 for anger management. He was diagnosed and prescribed medication for bipolar disorder. And he had reported attempting suicide multiple times.

¶ 16 Following a hearing, the trial court initially sentenced Pharoah to an aggregate term of 100 years in prison (consecutive terms of 30 years for first degree murder and 25 years for attempted first degree murder, plus what were then mandatory firearm enhancements of 25 years and 20 years, respectively, on those two charges, with the battery charge merging into the attempted murder charge). The court concluded that Pharoah had a “malignant heart,” observed that there was “[n]ot much” to consider in mitigation besides the fact that he was 16 years old at the time of his offenses, and was satisfied that Pharoah had “earned every single

day, every single minute, [and] every single second” of his sentence. “Is there room for rehabilitation for Pharoah Morris?” the court asked. “That’s up to him. If he’s rehabilitated he’ll be inside, however.”

¶ 17

B. Initial Direct Appeal

¶ 18

In his initial direct appeal, Pharoah argued, among other things, that his 100-year sentence was a mandatory *de facto* life sentence. He maintained that the statutory sentencing scheme then in place, which required the trial court to sentence him to consecutive prison terms with corresponding mandatory 25-year and 20-year firearm enhancements, precluded the sentencing judge from considering his youthful characteristics and thus violated both the eighth amendment and the proportionate penalties clause of the Illinois Constitution (Ill. Const. 1970, art. I, § 11). *Morris*, 2017 IL App (1st) 141117, ¶ 19. This court agreed. We noted that, while Pharoah’s appeal was pending, our supreme court had extended the holding in *Miller*, 567 U.S. at 465, to *de facto* life sentences (*Morris*, 2017 IL App (1st) 141117, ¶ 23 (citing *Reyes*, 2016 IL 119271, ¶ 9)). We concluded that Pharoah, who would be required to serve at least 93 years of his 100-year sentence, had received such a sentence. *Id.* ¶ 30.

¶ 19

Looking at the record as a whole, we were “not convinced that the trial court adequately considered [Pharoah’s] youth and attendant circumstances” before imposing this mandatory *de facto* life sentence. *Id.* ¶ 32. We noted the trial court’s stated belief that for some crimes, “you pretty much forfeit your right to be ever out on the street again” (internal quotation marks omitted) and were unable to conclude that the judge had “carefully considered [Pharoah’s] youthful characteristics against [the relevant] aggravating factors before coming to the ultimate conclusion that [he] was ‘the rarest of juvenile offenders *** whose crimes reflect permanent incorrigibility,’ rather than *** ‘unfortunate yet transient immaturity.’” *Id.* (quoting *Montgomery v. Louisiana*, 577 U.S. 190, 208-09, (2016)). We thus vacated Pharoah’s sentence and remanded for resentencing.

¶ 20

We made clear in our opinion that Pharoah could elect to be resentenced on remand under section 5-4.5-105 of the Code (730 ILCS 5/5-4.5-105 (West 2020)), which now specifically requires sentencing judges to consider the youth-based factors set out in *Miller* before imposing a sentence of any duration on a juvenile offender and which also gives courts the discretion to decline to impose firearm enhancements when sentencing juveniles. *Morris*, 2017 IL App (1st) 141117, ¶¶ 34, 37, 44.

¶ 21

C. Resentencing on Remand

¶ 22

Private defense counsel was appointed to represent Pharoah on remand because the public defender’s office had a conflict of interest—it represented Pharoah’s mother, who was charged with the attempted murder of Pharoah’s brother. At status conferences leading up to the resentencing hearing, the trial court noted that *People v. Buffer*, 2019 IL 122327, ¶ 40, had been decided, in which our supreme court held that a sentence of more than 40 years is a *de facto* life sentence. The court also observed that *Miller* and the cases that had followed it, including *Reyes* and *Buffer*, were all concerned with sentences of life in prison *without parole*. If Pharoah was eligible for parole, the court asked, “[did] those cases apply at all?” The State took the position that they did not. “In other words,” the court said, “he could get the same sentence he got before.”

¶ 23 Defense counsel agreed. “I still think, though,” he noted, “that the Appellate Court’s opinion [was] that it would be mandatory [for] this court [to] take into consideration [Pharoah’s] youth at the time of sentencing.” The trial court accepted that this was true but believed our opinion had been only a “soft reversal.” He then expressed some frustration with his task on remand, noting that this court “did not say the sentence was wrong” but were now asking him to “consider the fact that [Pharoah] was a young guy.” He may not have mentioned Pharoah’s specific age, but the judge was sure he had noted at the original sentencing hearing that Pharoah was “a young guy” and “[a] young guy is a young guy.” The judge said, “I just think it’s in some respect ridiculous.”

¶ 24 Before the resentencing hearing, the parties submitted a joint memorandum on the status of the law governing juvenile sentencing. They noted that Pharoah was entitled to be resentenced under either the law in effect at the time of his offenses or the law in effect at the time of his resentencing, that the sentencing range for first degree murder was 20-60 years, that the sentencing range for attempted murder was 6-30 years, and that the firearm enhancements that had previously been mandatory were now discretionary. They gave an overview of the relevant case law, the codification in Illinois of the youth-based sentencing factors set out in *Miller*, and the new availability of parole for individuals who were under the age of 21 at the time of their crimes.

¶ 25 The judge began the resentencing hearing on November 22, 2021, by announcing that the Illinois Supreme Court had recently held in *People v. Dorsey*, 2021 IL 123010, ¶ 65, that day-for-day credit must be deducted when determining whether a lengthy, term-of-years sentence qualifies as a *de facto* life sentence under *Buffer*. The judge noted that the defendant in *Dorsey* had been sentenced to “a whole bunch of time” but that with day-for-day credit he might only serve 40 years. The judge’s understanding was that in such a situation, “*Buffer* doesn’t really apply and it is a proper sentence.” The judge noted that *Dorsey* “talked about eligibility for parole as well” and instructed the parties to direct the court’s attention to this and any other relevant law, saying “put in what you want to put in and I will read what I think applies as well.”

¶ 26 The parties waived opening arguments, and the State called Darryl Jackson, DeAntonio’s father, to the stand to read his victim impact statement into the record. Mr. Jackson stated that his son was a 16-year-old high school student at the time of his death and had been senselessly killed because he tried to save his friend’s life as they walked home from school.

¶ 27 The parties stipulated that, while incarcerated, Pharoah had been convicted twice for aggravated battery/great bodily harm to a correctional officer (for which he received concurrent sentences of three years and six months, respectively, to be served consecutively with his sentence in this case) and had additional felony charges of aggravated battery to a correctional officer in a third case that was still pending. An Illinois Department of Corrections report said that Pharoah had also been involved in a fight in 2017, in which he stomped on an inmate’s head until warning shots were fired and the inmate had to be airlifted from the prison for medical treatment.

¶ 28 The State then pointed out to the court that although the PSI report indicated that Pharoah had been hospitalized for suicide attempts, the records detailing his three admissions to Hargrove Hospital—in 2006, 2007, and 2008—made no mention of suicide.

¶ 29 Pharoah’s counsel introduced letters in mitigation from Pharoah’s mother, fiancée, childhood friends, and former classmates, all attesting to his character and their belief in his

capacity for change. Pharoah's mother explained that she was a single mother of five children and that, together, she and Pharoah had "battled with his mental health and learning disabilities" and had done "the best [they] could without any help." She asked the court to show mercy on her son and to understand that at the time of his offenses, Pharoah "was not stable enough to be on his own and had limited decision-making skills."

¶ 30 Tazesia Rutley, a longtime friend of Pharoah's and his fiancée of one month, testified that Pharoah was a gentleman, always made her feel "safe and protected," and would "put others before himself and keep them out of harm's way." She pleaded with the court to give him a second chance because he was human, all humans make mistakes, and he was "willing to grow and change his life around if given the opportunity."

¶ 31 A brief discussion of the relevant law followed. The State noted that "a lot ha[d] changed *** since [Pharoah] was sentenced the first time around in 2014." It pointed out that under the new statutory sentencing scheme he had chosen to be resentenced under, Pharoah would have two opportunities to petition for parole—after serving 20 years in prison and again after serving 30 years. The sentencing judge found this significant. He agreed with defense counsel that a 100-year sentence, "without any of these mitigating factors," was a *de facto* life sentence but concluded that the law did not preclude such a sentence, so long as the relevant factors were considered. "I could reimpose the sentence I gave him before. I think," the court stated.

¶ 32 The parties then made their arguments. The State emphasized that two weeks before DeAntonio's murder, Pharoah had "popped out of no where [*sic*]" and shot Marvin Floyd off of his bicycle. After weeks of life-saving treatment, Marvin had survived. That had been an opportunity for Pharoah to reflect on what he had done, get rid of the gun, and "change his ways." Instead, the State argued, he and a friend were kicked out of school on the first day of classes, and Pharoah retrieved his gun and "ambushed" a group of students walking home from school. He shot Corey in the back as he was running away and shot DeAntonio when he came back to help his friend.

¶ 33 The State reminded the court that, while awaiting trial, Pharoah had made a "kill list" and tried to hire a hit man to eliminate the State's witnesses. And he had continued to commit violent crimes in prison. The State did not seek a specific sentence on remand but urged the court to impose the discretionary firearm enhancements, saying, "[i]f there is one person that deserves discretionary add-ons, it is the defendant," and asked it to impose a sentence that would "tell people that no matter what age you are you can't just shoot people as they are running away from you."

¶ 34 Before allowing defense counsel to proceed, the judge questioned the State regarding whether, as a matter of law, he could impose the same 100-year sentence he had before. The following exchange took place:

"THE COURT: Mr. Allen, do your thoughts at this point allow the Court, in your opinion at least, to reimpose the sentence I gave him before? Does your viewpoint allow me, within the law, to reimpose the same thing I gave him before, a hundred years all together? I am not saying I would or I wouldn't, but do you think I could?"

MR. ALLEN [(ASSISTANT STATE'S ATTORNEY)]: The appellate court certainly indicated that they were not telling this court that you could not resentence him. The *Buffer* case seems to indicate a much lower number, but we are asking you to go outside of the *Buffer* restrictions because the defendant has earned it, earned it back in 2010 and continued to earn it while he has been picking up and getting convicted.

THE COURT: *Buffer* does not preclude a sentence of more than 40 years?

MR. ALLEN: Correct.”

The judge then turned things over to defense counsel, noting that it was “kind of a tough act to follow” but instructing counsel to “[g]o ahead.”

¶ 35 Defense counsel argued that the case had been remanded for the court to consider not just youth as an abstract concept but specific youth-based sentencing factors. Pharoah’s upbringing, counsel argued, was “deplorable” and “tragic.” His father was in prison in another state, his mother had neglected him and put him in harm’s way, and he was sexually abused by older women and introduced to illegal substances at a young age. Pharoah had been hospitalized for mental illness and his school had attempted to intervene to provide him with special education services, but his problems had persisted. Counsel argued that “[t]he *Buffer* court made it clear that *de facto* life” should be “the last resort of the court when fashioning sentences” and that punishment should be considered but also “the potential for rehabilitation and the hope of an entire life not being lost for sentences in the 80, 90, 100-year range.” He asked for “a substantial deviation” from the sentence previously imposed and, specifically, for the court not to impose the now-discretionary firearm enhancements.

¶ 36 The court asked defense counsel if Pharoah’s mental health struggles were all self-reported. Counsel acknowledged that, with the exception of the individualized education plan (IEP) documented by his school, they were, but he urged the court to find that the school’s records lent credence to what Pharoah himself had reported.

¶ 37 The judge then made a preliminary pass through the youth-based sentencing factors, making clear that he was “not ruling on those things at [that] point” but “just asking, in effect, rhetorical questions.” He concluded by saying that he had made “[j]ust a quick glance” and “not a thorough reading,” but he was “not jumping up and down in Pharoah Morris’s favor at [that] point.” He then asked defense counsel, “do you feel like I can consider more sentence than 40 years?” Counsel replied:

“[I]t is my opinion that the *Buffer* case and the mandate from the appellate court in this case is that sentences should be in that 40-year range for juveniles being sentenced outside of many, many, many extenuating circumstances.

*** That’s what was contemplated, I believe, by the appellate court when this was handed down.”

¶ 38 The sentencing judge responded that he believed that, in remanding the case, this court was “basically saying *** yeah, you can give him a hundred years, but think it over and see what you think.” It was “a curious fact,” he noted, and something he had “checked into,” that the defendant in *Miller*, the seminal case on juvenile sentencing, was “still in custody serving whatever sentence he got back in those days, a life sentence.” He concluded the hearing and took the matter under advisement, saying, “I will consider it. I will do what I think is the right thing to do. I always do what I think is the right thing to do.”

¶ 39 Court reconvened on December 15, 2021. The sentencing judge opened by reiterating that in *Miller* the defendant, who was only 14 at the time of his crime, had recently been resentenced to life without parole. That showed, the judge said, that although cases had come down over the years “with favorable dispositions for juveniles,” they “[did] not preclude a life sentence.” The sentencing judge noted that, although there were now “certain issues you have to deal with” in order to “make a life sentence work,” the case law “[did] not preclude that possibility.”

The judge also noted that both *Miller* and *Buffer* talked about life or *de facto* life sentences “without parole.” Unlike the defendants in those cases, however, Pharoah would be eligible for parole after 20 years and, if unsuccessful then, again after 10 additional years.

¶ 40 The judge then read the entire parole statute into the record, saying, “[i]t looks like this law was written with Pharoah Morris in mind.” Although the sentencing judge expressed skepticism over whether Pharoah would ever be released on parole, noting that it was “almost a scary thought,” he would at least be given a chance to get out of prison. In the court’s view, that was all the law required.

¶ 41 Before announcing Pharoah’s sentence, the judge said that he had “[o]ne more comment” and then he would be “done talking for today.” He then briefly addressed each of the new statutory sentencing factors applicable to juvenile offenders:

“There’s a statute that talks about considerations to take which I have done and there—I’ve considered all these different things *** they’re statutory considerations.

The person’s age, impetuosity, level of maturity at the time of the offense including the ability to consider risk and consequences of behavior, the present and cognitive or developmental disability or both if any.

Age. Yeah, 16.

Impetuosity. These are thought out crimes. Not impetuousness. He goes up to the guys on the street and shoots and kills one and shoots the other. I’m not sure what impetuosity has to do with that whatsoever.

Level of maturity. Well, Morris, for a 16 year old, was quite mature, and that’s shown by his conduct at the jail. I want those witnesses taken care of. That shows conscientious thought on his part.

* * *

Present and cognitive or developmental disability. Well, special education classes.

*** [W]hether a person is subject to outside pressure including peer pressure, familial pressure, negative influences. While it’s true that Morris says at the time of the incident or around that time at least he was a member of a gang. (Indecipherable) influenced one way or the other.

Two guys walking down the street from school. One guy riding his bike. Witnesses might’ve (indecipherable) something he had about the case itself. There’s no peer pressure on Pharoah Morris.

Familial pressure. Well, like I said before, his mother didn’t treat him the best. No pressure on her part to go out and kill somebody however. ***

The person’s family, home environment, educational, social background, including a history of parental neglect, physical abuse, other childhood trauma. Well, he was neglected by the mother and women he had to deal with sexually at his young age according to Pharoah Morris.

*** [P]otential for rehabilitation, evidence of rehabilitation or both. I’d say he hasn’t shown it so far.

[He’s had] crimes committed while he’s in custody. One would see that if a guy is in custody awaiting trial or awaiting resentencing he’d be a model prisoner. He wouldn’t want to get into it with the guards at the penitentiary or the guard at the jail

or an inmate in prison somewhere. You want to be a model prisoner, rehabilitate, do your best you can to get out at some point or another.

* * *

Well, role of the offense? *** He killed the boy himself. There is no accountability issue there. Participation is he was the murderer. That's the participation of Pharoah Morris.

Planning. Well, who knows about the planning part. He walked up to two guys on the street with a gun on him. Maybe he had some bad thoughts already. Whether it was planned or not who knows.

Able to participate in his or her defense. Well, he had a good lawyer at trial putting forward (indecipherable). Lawyers cannot change the evidence in a given case. They could put a little different spin on it. They can't change it.

The person's prior juvenile or criminal history. *** At the time of the murder he was on probation for aggravated robbery. ***

Prior juvenile history I already mentioned that the basis for aggravated robbery. Other information the Court finds relevant and reliable ***. Well, he's not said anything in court. I won't hold that against him one twit. By his conduct, however, for what he's done he's not shown any remorse whatsoever. *** It's one thing after another for Pharoah Morris. Either on the street, in the penitentiary, in the county jail, wherever else he could find a suitable victim and he found plenty."

¶ 42 The court then imposed the same sentence that it had before—55 years for the first degree murder of DeAntonio Goss and 45 years for the attempted murder of Corey Thompson. The judge reiterated that Pharoah had "earned every single day" of that 100-year sentence by killing a 16-year-old boy, calling it all "a tragic waste."

¶ 43 The court denied defense counsel's motion for reconsideration, and this appeal followed.

¶ 44 II. JURISDICTION

¶ 45 Pharoah was resentenced on December 15, 2021, and timely filed his notice of appeal the same day. Our jurisdiction over this appeal is pursuant to article VI, section 6, of the Illinois Constitution (Ill. Const. 1970, art. VI, § 6) and Illinois Supreme Court Rule 603 (eff. Feb. 6, 2013) and Rule 606 (eff. Mar. 12, 2021), governing appeals from final judgments of conviction in criminal cases.

¶ 46 III. ANALYSIS

¶ 47 The United States Supreme Court held in *Miller* that a statutorily mandated sentence of life without parole for a juvenile offender violates the eighth amendment's prohibition of cruel and unusual punishments because it deprives the sentencing court of the ability to consider the "diminished culpability and heightened capacity for change" inherent in youth. *Miller*, 567 U.S. at 479. This was deemed a new substantive rule of constitutional law with retroactive effect. *Montgomery*, 577 U.S. at 212.

¶ 48 In 2016 and 2017, our own supreme court extended *Miller*'s holding to include mandatory *de facto* life sentences—sentences so long that they are the functional equivalent of life without parole (*Reyes*, 2016 IL 119271, ¶ 9)—and discretionary life sentences (*Holman*, 2017 IL 120655, ¶ 40). However, as noted above, the supreme court's decision in *Holman* was just overruled by *Wilson*, 2023 IL 127666, ¶ 42. Our supreme court answered the question of how lengthy a sentence must be to constitute a *de facto* life sentence in 2019, when it decided in *Buffer*, 2019 IL 122327, ¶¶ 32, 34, 36-41, that sentences exceeding 40 years would be considered *de facto* life sentences. *Id.*

¶ 49 A. Whether *Miller* Applies Here

¶ 50 The question initially raised by this appeal was whether the holding in *Miller* applies when a defendant has been sentenced to more than 40 years but will be eligible for parole after just 20 years. The State maintains, as the circuit court firmly believed, that *Miller* and its progeny have no application under these circumstances. It argues that our supreme court's decision in *Dorsey*, 2021 IL 123010, ¶ 65, holding that day-for-day good-conduct credit must be deducted when determining whether a sentence is a *de facto* life sentence under *Buffer*, compels this conclusion.

¶ 51 Several years ago, our legislature made parole available to individuals who were under the age of 21 at the time of their offenses and who are sentenced after June 1, 2019. See Pub. Act 100-1182, § 5 (eff. June 1, 2019) (adding 730 ILCS 5/5-4.5-110(b)); Pub. Act 101-288, § 10 (eff. Jan. 1, 2020) (amending and renumbering as section 5-4.5-115). Parole will thus be available to Pharoah, who was resentenced in 2021.

¶ 52 As Pharoah points out, and as the *Dorsey* court itself recognized, parole is a matter of legislative grace, while the day-for-day good-conduct credit at issue in *Dorsey* is closer to an entitlement; it generally *must* be awarded, and there are mechanisms for judicial review in place to ensure it is revoked only where warranted. See *Dorsey*, 2021 IL 123010, ¶¶ 60-61.

¶ 53 The impact of parole on the *Miller* requirements has been addressed by a number of courts in other states, where parole has been available for much longer than it has been in Illinois. Some of those courts have concluded that the mere possibility of parole does not, on its own, constitute a meaningful opportunity for release sufficient to bring a life sentence imposed on a juvenile outside the purview of *Miller*. In *State v. Patrick*, 2020-Ohio-6803, 172 N.E.3d 952, ¶ 33, for example, the Ohio Supreme Court concluded, based in part on the fact that the state's parole release rate from 2011 to 2018 was only 10%, that the difference between a life sentence with parole and a life sentence without parole was “*not material* for purposes of an Eighth Amendment challenge by [a juvenile] offender.” (Emphasis added.) *Id.* In *Howard v. Coonrod*, 546 F. Supp. 3d 1121, 1132 (M.D. Fla. 2021), a federal district court in Florida similarly concluded that by “detail[ing] out the ways in which Florida's parole system denies a ‘realistic opportunity for release based on demonstrated maturity and rehabilitation,’ ” the plaintiffs in that case had sufficiently pleaded eighth amendment violations. The court in *Maryland Restorative Justice Initiative v. Hogan*, No. ELH-16-1021, 2017 WL 467731, at *27 (D. Md. Feb. 3, 2017), likewise concluded that plaintiffs had “sufficiently alleged that Maryland's parole system operates as a system of executive clemency, in which opportunities for release are ‘remote,’ rather than a true parole scheme in which opportunities for release are ‘meaningful’ and ‘realistic.’ ”

¶ 54 The State directs our attention to *People v. Elliott*, 2022 IL App (1st) 192294, ¶ 56, where this court concluded—in the context of a young-adult offender’s argument that he was the functional equivalent of a juvenile—that a sentence providing the opportunity for parole before 40 years have passed “simply does not implicate *Miller*.” See *People v. Kendrick*, 2023 IL App (3d) 200127, ¶ 42 (reaching the same conclusion in the same context). Our supreme court has not yet addressed the effect of parole on its *Miller* jurisprudence.

¶ 55 However, we need not decide the impact of the availability of parole in this case because, as noted below, it can be resolved on statutory grounds. In addition, this question may also be moot in light of our supreme court’s recent decision in *Wilson*, 2023 IL 127666. *Wilson* overruled *Holman*, 2017 IL 120655, ¶ 40, which had held that *Miller* applies to discretionary, as well as mandatory, life sentences. *Wilson*, 2023 IL 127666, ¶¶ 29, 41-42. Under *Wilson*, so long as a juvenile offender “was sentenced under a sentencing scheme that granted the sentencing court the discretion to consider [his or her] youth and attendant circumstances and to impose less than a *de facto* life sentence,” and so long as it is also “clear from the record that the sentencing court did not *refuse*, as a matter of law, to consider [the defendant’s] youth” (emphasis added), the defendant will be found to have “received the constitutionally required procedure under *Miller*.” *Id.* ¶ 44. It is clear in this case that Pharoah received a discretionary life sentence. The minimum sentence for first degree murder is 20 years in prison (730 ILCS 5/5-4.5-20 (West 2020)), the minimum sentence for attempted first degree murder is 6 years (720 ILCS 5/8-4(c)(1) (West 2020); 730 ILCS 5/5-4.5-25(a) (West 2020)), and, as noted above, the firearm enhancements that were once mandatory were discretionary on resentencing. Because the court had the discretion to give Pharoah a sentence as low as 26 years, it would appear after *Wilson* that no eighth amendment claim is available to him.

¶ 56 In his response to the State’s motion for leave to cite *Wilson* as supplemental authority, Pharoah points out that *Wilson* specifically left unanswered the question of whether more is required of a sentencing court under the proportionate penalties clause. He maintains that courts are still required, following careful consideration of the youth-based sentencing factors articulated in *Miller*, to make a finding of permanent incorrigibility before imposing a life or *de facto* life sentence on a juvenile. Pharoah did not make a separate proportionate penalties clause argument on appeal but did refer to the clause several times in his briefs.

¶ 57 There is no need for us to decide either of these constitutional issues where, as discussed below, this case can be decided solely on nonconstitutional grounds. Our supreme court has repeatedly admonished this court that “cases should be decided on nonconstitutional grounds whenever possible,” with constitutional issues reached “only as a last resort.” *In re E.H.*, 224 Ill. 2d 172, 178 (2006).

¶ 58 B. The Sentencing Judge Was Predisposed to
Impose the Same Sentence on Remand

¶ 59 The youth-based sentencing factors set out in *Miller* were adopted by our General Assembly and are now codified in section 5-4.5-105(a) of the Code. There is no question, with or without the availability of parole, that the trial court was required to consider those statutory factors on remand. See 730 ILCS 5/5-4.5-105(a) (West 2020) (“the court *** *shall* consider the following additional factors in mitigation” (emphasis added)). Nor do we believe our supreme court’s decision in *Wilson*, which deals exclusively with what is required under the eighth amendment, has any bearing on our assessment of whether that was done here.

¶ 60 We generally review a trial court’s sentencing decision for an abuse of discretion (*People v. Stacey*, 193 Ill. 2d 203, 209 (2000)), and the State emphasized at argument that this is a very deferential standard of review. Pharoah’s argument here is that the court was predisposed to impose a certain sentence and failed to keep an open mind while considering the relevant factors and evidence during the resentencing hearing. We must consider, then, “whether the trial court did, in fact, exercise its discretion or whether it abused that discretion by acting in an arbitrary manner.” *People v. Bolyard*, 61 Ill. 2d 583, 586-87 (1975) (concluding that it was an abuse of discretion for the court to arbitrarily refuse to consider probation as a possible sentence).

¶ 61 We will order a new sentencing hearing where a judge’s comments on the record indicate that he or she has predetermined a defendant’s sentence before considering the relevant statutory factors. We did so in *People v. Zemke*, 159 Ill. App. 3d 624, 629 (1987), where it was “apparent that [the judge] would not have considered sentencing the defendant to anything less than the maximum term” for a crime that the judge personally considered “more reprehensible than murder.” And we did so in *People v. Coleman*, 212 Ill. App. 3d 997, 1002 (1991), where immediately after finding the defendant guilty, and before any evidence in mitigation or aggravation had been presented, the trial judge stated that he was “ ‘contemplating the maximum [sentence] just to get [the defendant] off the streets and try to get him some treatment.’ ”

¶ 62 Resentencing is likewise appropriate where the judge’s comments reveal that he or she refused to consider the whole range of statutorily permissible sentences. In *Bolyard*, 61 Ill. 2d at 585, 587, for example, our supreme court remanded for resentencing before a new judge where it concluded that the sentencing judge had refused to consider probation as a possible sentence. We did the same in *People v. Kendrick*, 104 Ill. App. 3d 426, 435-36 (1982).

¶ 63 Here, we agree with Pharoah that the record as a whole demonstrates that the sentencing judge was preoccupied with whether he could simply reimpose the same 100-year sentence on remand—something the State had not even asked him to do. He raised the question with both the State and with defense counsel on multiple occasions before, during, and after the resentencing hearing (“In other words, he could get the same sentence he got before.”/“I could reimpose the sentence I gave him before. I think.”/“Does your viewpoint allow me, within the law, to reimpose the same thing I gave him before, a hundred years all together?”) He also seemed to view the youth-based sentencing factors, not as considerations meant to assist him in choosing from among the whole range of possible sentences but rather as “certain issues you have to deal with in order to make a life sentence work.” This results-driven approach is not what the statute contemplates and was an abuse of discretion. Pharoah must be sentenced a third time, by a judge who will adhere to the legislature’s directives regarding the sentencing of youthful offenders, while remaining open to all possible sentences.

¶ 64 Illinois Supreme Court Rule 366(a)(5) (eff. Feb. 1, 1994) permits a reviewing court, in its discretion, to order that a case be assigned to a different judge on remand. *People v. Serrano*, 2016 IL App (1st) 133493, ¶ 45. We find that the interests of justice would be furthered by the exercise of that discretion here. Pharoah has been sentenced twice by the same judge. To ensure that both he and the State are able to approach resentencing with confidence that the judge will properly apply the current law, with no predisposition based on what sentence might have been appropriate under a sentencing structure that is no longer in place, we direct the presiding judge

of the criminal division to assign this case to a different judge within that division.

¶ 65

IV. CONCLUSION

¶ 66

We vacate Pharoah's 100-year sentence and remand this case to the presiding judge of the criminal division of the circuit court with directions to assign the case to a different judge for resentencing.

¶ 67

Reversed and remanded with directions.

Notice of Appeal

(Rev. 11/07/03) CCCR 0603

TO THE COURT OF ILLINOIS
IN THE CIRCUIT COURT OF COOK COUNTY
CRIMINAL BUREAU

PEOPLE OF THE STATE OF ILLINOIS

v.

PHANICH MONNIS

Case No. 10 CR 17 98391

Trial Judge SACKS

Court Reporter

Attorney

Appeal Check Date NA

Appeal Bond N/A

ENTERED
Judge Stanley J. Sacks #1531

DEC 15 2021

IRIS Y. MARTINEZ
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL

NOTICE OF APPEAL

An appeal is taken from the order or judgment described below:

Appellant's Name: PHANICH MONNIS

Appellant's Address: EDOC

Appellant's Attorney: ILLINOIS STATE APPELLATE DEFENSE

Address:

Offense: FIRST DEGREE MURDER / ATTEMPT 1st MURDERJudgment: Guilty of FIRST DEGREE MURDER / ATTEMPT 1st MURDER

on a CLASS X FELONY

Date: 12/15/21

Sentence:

Date Notice Filed: 12/15/21

ENTERED

DEC 15 2021

IRIS Y. MARTINEZ
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

Appellant

VERIFIED PETITION FOR REPORT OF PROCEEDINGS AND COMMON LAW RECORD

Under Supreme Court Rules 605-608 Appellant requests the Court to order; (1) the Official Court Reporter to transcribe an original and the copy of the proceedings, file the original with the Clerk and deliver the copy to the Appellant, or upon Appellant's written request to the Appellant's attorney of record, and (2) the Clerk to prepare the Record on Appeal.

The Appellant, being duly sworn, states that at the time of his/her conviction, s/he was and s/he now is unable to pay for the Record or an appellate lawyer.

[Signature]

Appellant

SUBSCRIBED and SWORN TO before me this day of

Notary Public

ORDER

IT IS ORDERED; 1. ILLINOIS STATE APPELLATE DEFENSE

appointed as counsel on appeal, and 2. the Record and Report of Proceedings be furnished to appellant without fees.

11/22, 2021 12/15, 2021

DATE: 12/15, 2021

ENTER:

Judge

Judge's No.

I acknowledge receipt:

Court Reporter

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION**

PEOPLE OF THE STATE OF ILLINOIS

v.

PHAROAH MORRIS

Defendant

Case Number 10CR1798301Date of Birth 07/07/1994Date of Arrest 09/08/2010IR Number 1763578SID Number 057900350

**ORDER OF COMMITMENT AND SENTENCE TO
ILLINOIS DEPARTMENT OF CORRECTIONS**

The above named defendant having been adjudged guilty of the offense(s) enumerated below is hereby sentenced to the Illinois Department of Corrections as follows:

<u>Count</u>	<u>Statutory Citation</u>	<u>Offense</u>	<u>Years</u>	<u>Months</u>	<u>Class</u>	<u>Consecutive</u>	<u>Concurrent</u>
025	720-5/9-1(a)(1)	MURDER/INTENT TO KILL/INJURE	45		M	X	
001	720-5/9-1(A)(1)	MURDER/INTENT TO KILL/INJURE	55		M	X	

On Count _____ defendant having been convicted of a class _____ offense is sentenced as a class _____ offender pursuant to 730 ILCS 5/5-4.5-95(b).

On Count _____ defendant is sentenced to an extended term pursuant to 730 ILCS 5/5-8-2.

The Court finds that the defendant is entitled to receive credit for time actually served in custody for a total credit of _____ years and 4117 days, as of the date of this order. Defendant is ordered to serve 3 years Mandatory Supervised Release.

IT IS FURTHER ORDERED that the above sentence(s) be concurrent with the sentence imposed in case numbers(s) _____

AND: consecutive to the sentence imposed under case number(s) _____

IT IS FURTHER ORDERED THAT RESENTENCED: MITT TO ISSUE

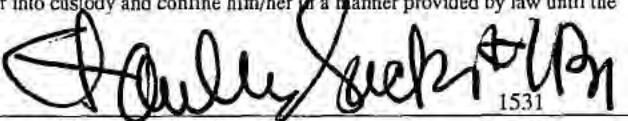
IT IS FURTHER ORDERED that the Clerk provide the Sheriff of Cook County with a copy of this Order and that the Sheriff take the defendant into custody and deliver him/her to the Illinois Department of Corrections and that the Department take him/her into custody and confine him/her in a manner provided by law until the above sentence is fulfilled.

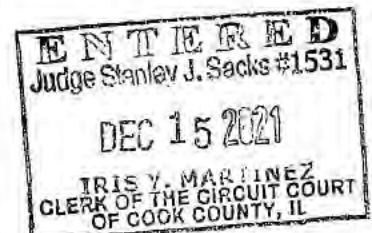
Dated December 15, 2021

Certified by: _____

Deputy Clerk T. Patton

Verified by: _____


1531
Judge Sacks, Stanley J. Judge's No.



IRIS Y MARTINEZ, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

1 STATE OF ILLINOIS)
) SS:
 2 COUNTY OF C O O K)

FILED

MAR 2 2022

3 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
 COUNTY DEPARTMENT - CRIMINAL DIVISION
 4

THE PEOPLE OF THE STATE)
 5 OF ILLINOIS,)
)
 6 Plaintiff,)
)
 7 v.) No. 10 CR 17983-01
) 19118666701
 8 PHAROAH MORRIS,) 17121425501
)
 9 Defendant.)

10

11 REPORT OF PROCEEDINGS had at the
 12 hearing in the above-entitled cause before the
 13 HONORABLE STANLEY SACKS, one of the Judges of said
 14 court, on the 15th day of December, A.D., 2021.

15 PRESENT:

16 HONORABLE KIMBERLY M. FOXX,
 State's Attorney of Cook County, by:
 17 MR. JEFFERY ALLEN,
 Assistant State's Attorneys,
 18 appeared for the People;

19
 20 MR. DAVID GAEGER,
 Private Attorney,
 appeared for the Defendant.

21

22

23 ROCIO GARCIA, C.S.R.
 Official Court Reporter
 24 License No. 084-004387

1 THE COURT: Take off the hardware, at least the
2 handcuff part.

3 THE DEFENDANT: Good afternoon.

4 THE COURT: Good afternoon. Have a seat please.

5 On the case of Pharoah Morris. He is here.
6 His lawyer David Gager is here. State's here in
7 person, Jeffrey Allen.

8 I heard arguments. Appropriate sentence for
9 Pharoah Morris on a previous court date proven till
10 today's date to -- for me to review that and make some
11 notes and make some comments which I've done.

12 The case where Mr. Morris is here really
13 started way before the murder that he's here for. The
14 seminal case we always hear about is Miller versus
15 Alabama. And in Miller versus Alabama -- Miller's
16 first name was Eden, E-d-e-n, Eden Miller and Alabama.

17 In 2003 at the age of 14 Eden Miller, along
18 with an accomplice, beat Miller's neighbor to death
19 with a baseball bat and set the trailer the victim
20 lived in on fire in the town of Moulton, Louisiana, I
21 think it was, which apparently must be close to
22 Alabama.

23 An accomplice, age 16, assisted in the
24 beating and the arson of the victim. The victim was a

1 person named Cole Cannon, C-o-l-e C-a-n-n-o-n.
2 Mr. Cannon was age 52 at the time that Eden Miller and
3 the accomplice beat him to death and set the trailer on
4 fire. He actually died from the beating and from smoke
5 inhalation as well. And what Eden Miller took,
6 resulted as murder, was a set of baseball cards.
7 Murdered the man for baseball cards. I guess he was a
8 collector or something.

9 Miller was sentenced as a juvenile. In those
10 days in Alabama at least they had two types of
11 sentences. One was life with parole. One was life
12 without parole. Eden was sentenced to life without
13 parole for the murder of Mr. Cannon for taking his
14 baseball cards during the beating and setting this
15 trailer on fire as well.

16 Supreme Court said you can't have a life
17 sentence as a juvenile and therefore eventually Eden
18 Miller returned back to the state of Alabama.

19 Interestingly enough in 2021, which is
20 actually this year, Eden Miller was resentenced for the
21 murder of Mr. Cannon again to life without parole.
22 Miller's been in custody 18 years now. He was 14 at
23 the time of the murder. He's 32 years old now.

24 The court there in Alabama said there's

1 different circumstances now, different factors to
2 consider and they sentenced him the same he got before,
3 life without parole.

4 Now whether that case is in the court system
5 in Alabama now going back to Supreme Court of the
6 United States at some point or another, I don't know
7 but that's what happened in 2021. Eden Miller was
8 resentenced to life without parole. He's currently
9 serving the sentence in the Stay Clear -- State Care
10 Correctional facility in Springville, Louisiana where
11 he's been either there or other facilities for give or
12 take about the last 18 years.

13 I'm curious of what Supreme Court does with
14 that again since there's no life sentence for a
15 juvenile and he was sentenced again to life
16 imprisonment again.

17 In researching the issues before me in this
18 case whether or not Pharoah Morris was sentenced a
19 hundred years for the murder of the victim and attempt
20 murder of his friend should be allowed to stand. The
21 court then allowed to research on his own plus what the
22 lawyer submitted as well.

23 The case that comes down late in the last
24 number of years with favorable dispositions for

1 juveniles. They, however, do not preclude a life
2 sentence however. There's certain issues you have to
3 deal with in order to make a life sentence work as far
4 as sentence but the case law does not preclude that
5 possibility.

6 In the wording of Miller versus Alabama --
7 it's interesting because it says you cannot sentence a
8 juvenile to life, quote unquote, without parole. It
9 does also, since they've reaffirmed the same sentence
10 again this year 2021, that sentence to be -- avail a
11 sentence must give the person at least an opportunity
12 for release before a life sentence is concerned. It
13 doesn't guarantee he'll be released. It merely means
14 he has an opportunity to be released at some point or
15 another.

16 Moving away from that a little bit of trivia,
17 Miller versus Alabama, Eden Miller. We'll move onto
18 Pharoah Morris.

19 Before I get to Pharoah Morris himself you
20 have the case called Buffer, B-u-f-f-e-r, 2019 Illinois
21 Supreme Court 122327 which basically says a prison
22 sentence of 40 years or less imposed on a juvenile
23 offender provides some meaningful opportunity to obtain
24 release based on demonstrated maturity and

1 rehabilitation. Meaningful opportunity to obtain
2 release based on demonstrated maturity and
3 rehabilitation. However, it does not say you cannot
4 impose a sentence which in effect is a de facto life
5 sentence. It basically says if you're going to do that
6 you have to have certain criteria and one of the
7 criteria that Buffer talks about, and not necessarily
8 the same re- -- the same vain, is without parole.
9 Parole gives the man a chance to get out at some point
10 or another. Whether he gets out or not, that's neither
11 here nor there. That's up to the parole board. All it
12 requires is the man have a chance to get out, not that
13 he in fact does -- does in fact get out.

14 And Buffer, again, just like Miller and --
15 Miller talks about without parole. Without parole.
16 Without parole. As do the other cases that I'm
17 familiar in the last few years as well.

18 People versus Holman, for example,
19 H-o-l-m-a-n, 2017 Illinois Supreme Court 120655 and it
20 talks about the statutes. I'll get to a little bit
21 later on, what things to consider in determining an
22 individual's sentence.

23 In Buffer -- just going back to that for one
24 second or two. Illinois Supreme Court held that a

1 juvenile defendant's prison term is long enough to be
2 considered de facto life without parole. That phrase
3 comes up almost every single case you read. Life
4 without parole. Life without parole. And that also is
5 about Buffer and I mentioned a minute or two ago. A
6 meaningful opportunity to obtain release. Meaningful
7 opportunity to obtain release based on demonstrated
8 maturity and rehabilitation. It gives the person
9 incentive who is doing this lengthy sentence to do the
10 right thing when he's in custody in a prison situation.
11 Because if he does he might have a (indecipherable)
12 chance of getting out at some point or another. If he
13 doesn't do well I guess that's his issue but the
14 State's afforded inmates who are a certain age when a
15 crime was committed. Like in this case Morris was 16
16 at the time of the murder and it's rather ironic that
17 he's here being resentenced for a murder when he was 16
18 years old when the boy that he killed was 16 years old
19 also. Rather ironic. The man that he -- the young man
20 that he killed, Goss, was 16 years old at the time that
21 Pharoah Morris killed him. They both went to the same
22 school. Who knows if they knew each or not. They both
23 went to Bowen High School and for apparently no reason
24 at all or none that -- legitimate at all, Pharoah

1 Morris decided to kill the boy along with shooting his
2 friend injuring very seriously as well.

3 The Court will concede that Pharoah Morris
4 did not have the best of upbringings. Apparently his
5 father was in prison at one time or another. His
6 mother was in jail at one time or another.
7 (Indecipherable) the crime to himself. Statement was
8 abused by his mother physically. Sexually abused by
9 woman friends of his mother, whatever. That may be
10 true. At least according to Pharoah Morris that's
11 correct. So the Court's considered that along with
12 other things that (indecipherable) to me by the lawyers
13 as well.

14 We heard from the following people at the
15 sentencing hearing on the last court date. We heard
16 from Kadija (phonetic). I can't recall the last name
17 now. I forgot. She's here. She apparently got
18 engaged to Pharoah Morris in the last few months and
19 she basically says that people make mistakes therefore
20 Morris should get another chance. He merely made a
21 mistake.

22 I have to respectfully disagree about a
23 mistake. Morris' conduct was not a mistake. It's a
24 conscientious choice to shoot and kill this boy, to

1 shoot and injure his friend seriously as well so when
2 someone says it's a mistake it more or less falls on
3 death ears.

4 The girlfriend may have known him from the
5 streets, may have -- may think quite a bit of Pharoah
6 Morris. What I see is Pharoah Morris with a gun in his
7 hand shooting and killing that 16 year old boy for no
8 reason whatsoever other than the fact that he wanted to
9 kill somebody and not only that but a few weeks before
10 Morris shot another guy for no reason whatsoever
11 either.

12 The guy is riding his bicycle. Morris shoots
13 him in the back and injured him seriously as well, and
14 then thereafter while in the county jail Morris tries
15 to solicit an inmate to kill the witnesses. A
16 conscientious thought on Morris' part.

17 What he's saying around, I'll beat the case
18 but fortunately for those witnesses the other inmate
19 told the people at the jail and then they got the
20 letter that Morris wrote with the names and addresses
21 of witnesses he wanted to be -- as he put it at trial,
22 taken care of.

23 So you have one attempt murder a few weeks
24 before the murder. You had a murder. Attempted murder

1 on the same day that the witness' friend -- the
2 victim's friend and then in the jail, attempt to
3 solicit a witness, a jail inmate, to kill the
4 witnesses. All of these crimes were done by Pharoah
5 Morris when he was alone. There was nobody there to
6 influence Pharoah Morris. No pressure anybody else to
7 kill the one kid who was killed, Goss. Shoot the other
8 two guys.

9 For whatever reason he thought it'd be -- I
10 don't know. I wouldn't say fun but whatever reason he
11 thought it was something he wanted to do, just get that
12 gun and start shooting people with it. Fortunately --
13 unfortunately for Mr. Goss but fortunately the other
14 people that were shot, they survived the shooting by
15 Pharoah Morris. It was merely fortuitous that there
16 were not two more murders in this case other than just
17 Mr. Goss.

18 It's also fortuitous as well that the guy he
19 talked to at the jail wouldn't go along with this scam
20 about having the witnesses killed, told the sheriffs
21 people at the jail and they caught Pharoah Morris.
22 Tried to get the witnesses against him murdered.
23 Again, a conscientious, thought-out thing on Pharoah
24 Morris' part. No one influenced Pharoah Morris. He

1 chose to do it on his own. That's more or less what
2 got him here today, but not totally what got him here
3 today. We'll hear the totality of circumstances
4 shortly.

5 I said before the girlfriend -- I can't read
6 my own handwriting at the moment. Fiancee she prefers.
7 Pharis (phonetic) should get a second chance at freedom
8 other than his alleged convicted mistake.

9 Convicted mistake? That's almost laughable a
10 comment like that. Mistake. Shooting three people.
11 Calling this murder a mistake.

12 We heard also a letter from Angelica Case,
13 C-a-s-e. She said that Pharoah's character, he's
14 loving and understanding.

15 Perhaps he might've been when he's on the
16 street before he started his shooting spree and that --
17 Case says he's learned from his, quote unquote,
18 mistakes.

19 Well, these people apparently love and care
20 about Pharoah Morris but referred to the crimes he
21 committed in this case and others as, quote unquote,
22 mistakes. It's merely laughable as far as I'm
23 concerned.

24 Another person, not testified. I have a

1 letter on his behalf, Sandtrece Edwards. The first
2 name is S-a-n-d-t-r-e-c-e Edwards. Sandtrece Edwards.
3 The defendant has made mistakes.

4 Only someone who could love Pharoah Morris
5 could call the murder of a (indecipherable) quote
6 unquote, mistakes. There was no mistake about it. He
7 knew who he wanted to shoot and he shot him. He knew
8 who he wanted to kill and he killed him, who he wanted
9 to have murdered. Tried to get that accomplished.
10 There were no mistakes on Pharoah Morris' part. Only
11 someone who loves Pharoah Morris would call it a
12 mistake.

13 While Morris is awaiting resentencing -- he's
14 in the penitentiary under the sentence. Before he's
15 actually brought back to the county or whatever Morris
16 shows, what the witnesses for the defense may call
17 mistakes, shows additional conduct on his part while
18 he's in custody of the Department of Corrections. He's
19 sentenced twice for two separate inci- -- aggravated
20 battery of Department of Corrections to the guards.
21 Aggravated battery. Causing great bodily harm. Three
22 and a half years on each one.

23 While in custody awaiting resentencing,
24 aggravated battery of prison guards, three and a half

1 years twice.

2 In addition to that, however -- that's all
3 there is for Pharoah Morris however. Pharoah Morris is
4 not quite done yet with his reign of terror, the
5 murders, the attempt murders, trying to get the
6 witnesses killed. Pharoah Morris is not done yet.

7 There was testimony presented to me at the
8 sentencing hearing we were here last based on the
9 report handled by the Department of Corrections which I
10 agree is hearsay but in -- I think is reliable. Inmate
11 at the Department of Corrections does something. They
12 make a report. They indicated they dealt with it
13 administratively. There were no additional charges
14 filed against Pharoah Morris but the evidence in that
15 situation showed while he was in the Department of
16 Corrections he was involved with a fight with another
17 inmate. That happens when you're in custody, fights.
18 However, he was stomping on the man's head. The guards
19 had to use -- fire their guns off to get him off the
20 guy. They finally got him off of the guy. The guy was
21 taken to the hospital for treatment for the injuries
22 caused to him by Pharoah Morris and yet that takes
23 place while he's in the Department of Corrections.

24 He comes back to the county still awaiting

1 resentencing and he's still not quite done yet. I'm
2 not speculating. I'm not sure he's ever going to be
3 done, Pharoah Morris, but he comes back to the jail --
4 the case is pending now before Judge Linn. I won't
5 give it much weight at all. Just to reflect he pushes
6 a jail guard at the jail. When the guy turns around he
7 punches him in the face. That case is still pending.
8 I'll give it little weight if any about that. But it
9 merely shows that Morris can't get along with anybody,
10 on the street, in the Department of Corrections, in the
11 county jail, anywhere. He just cannot get along with
12 anybody on the street or anywhere else for that matter.

13 The two cases where he got three and a half
14 years each on were in Livingston County, wherever that
15 is, 18 CF 235, 18 CF 22, aggravated battery, great
16 bodily harm. Prison guards. Three and a half years on
17 each one. Two separate incidents.

18 When it comes down to victims, Morris does
19 not discriminate who he gets involved with shooting or
20 beating or kicking or whatever.

21 Civilians, unfortunately DeAntonio Goss, the
22 16 year old boy that he killed.

23 Floyd, the guy he shot two or three weeks
24 before and survived significant injuries. Hospitalized

1 twice. Hos- -- surgeries twice I should say.

2 Hospitalized for a few weeks or longer.

3 Thompson. Defendant Goss, also serious
4 injuries as well. Those are civilians. He might have
5 had more but the fact that he got caught with a letter
6 who he wanted to be killed.

7 Then you have prison guards, you have jail
8 guards and that's not going back a little bit further.

9 Pharoah Morris was born July 7th, 1994. He
10 was placed on probation at juvenile court for
11 aggravated robbery in July of 2009 and within a year or
12 so after that while he was on probation for aggravated
13 robbery in juvenile court that's when the crimes took
14 place, the attempted murders, the murder. What's --
15 what is solicitation. He's still a young guy. He was
16 15 years old maybe at the time.

17 There was one other little thing in there, a
18 minor thing perhaps. Solicitation of a minor. 30 days
19 in the detention center. I don't give much weight to
20 that either but it's -- nonetheless it's still there.

21 Attempted -- aggravated robbery I should say,
22 July of 2009.

23 The shooting of Marvin Floyd, August 21st,
24 2010.

1 September 8th, 2010, the murder of Antonio
2 (sic) Goss and the shooting of Corey Thompson. The
3 thing at the jail about getting witnesses murdered
4 shortly after that.

5 And then we have, while in DOC, the guards,
6 the jail, inmate at the jai- -- inmate at Department of
7 Corrections.

8 To say that Morris is dangerous would be an
9 understatement. He's already killed one person but for
10 the grace of God it would've been two more, but for the
11 grace of God it would've been way more if that note did
12 not get to the authorities in time.

13 And then the guards at the jail. The guard
14 at the jail. The guards at DOC. Inmate at the DOC.

15 I meant it before just briefly in pass. I'll
16 mention it briefly again. Morris spent 30 days in Cook
17 County Jail Department of Corrections. Time served.
18 Sexploi- -- exploitation of a child. A sentence was
19 imposed in 2014 so I'm not clear when that would've
20 taken place, where it would've taken place or what
21 circumstances. Nonetheless 30 day sentence. Time
22 served for that.

23 Getting into a little more detail about
24 Mr. Pharoah Morris. I'm sure -- I'm not trying to bore

1 Mr. Morris. He knows all about what I'm saying now.
2 He was there. Doesn't need me to tell him what he did.
3 He already knows. As I said before, at the time of the
4 murder of DeAntonio Goss Morris was 16 years old.
5 Ironically DeAntonio Goss was 16 years old also. So
6 you have basically one life lost. Unfortunately
7 DeAntonia Goss and what -- and one life left as far as
8 Pharoah Morris.

9 To what extent that'll be? How will it be?
10 Where it will be? You heard before his father was
11 incarcerated at one time or another in Wisconsin. The
12 mother was incarcerated in the county jail for a period
13 of time as well. How long he get's along, according to
14 these reporting and the PSI which I've considered. He
15 has four siblings and they got along well.

16 According to -- Morris' mother would beat
17 him, sexually abuse him with other woman as well. Self
18 reported. She does acknowledge in the letter she
19 wasn't the best mother to Pharoah Morris. However,
20 (indecipherable) Pharoah Morris that would put him here
21 today. It's his own treatment of others that put him
22 here today. His mother didn't help much. I'll give
23 her that much but that's not the cause solely of why
24 he's here now.

1 He went to 8th grade in school. Summers in a
2 part of school. Time with his friends who attended
3 Bowen High School. Same school as DeAntonio Goss
4 attended, Bowen High School.

5 The evidence shows Goss was walking home from
6 school, after school with his friend and when he
7 encountered Pharoah Morris. Unfortunately that was the
8 last time the kid got a chance to walk back from school
9 or walk back from anywhere as a matter of fact because
10 Pharoah Morris, for whatever reason, chose to shoot and
11 kill the boy. And but for the fact that Goss was a
12 very concerned young man for his friend -- his friend
13 even shot by Morris seriously and Goss went back to
14 help the kid out, and that's when Pharoah Morris killed
15 him. If he didn't go back he'd probably still be with
16 us today. That shows you what kind of kid DeAntonio
17 Goss was, went back to help his friend out and that's
18 when Pharoah Morris killed the boy.

19 He completed 8th grade. He attended Bowen
20 High School. Never been employed. He's single with no
21 children. At one time or another up until the time he
22 was 11 till 2014 in March, member of the Mafia Insane
23 Vice Lords. I said before, so many times before, being
24 in a gang by itself is not illegal. What you do in the

1 gang is what gets you some place bad. So he's a member
2 of the Mafia Insane Vice Lords, whatever that meant.
3 Quit when he was -- at the time was age 11. Quit in
4 2014. He's in good health. Not under the care of any
5 physicians. Never been treated for any serious
6 illnesses or diseases. Was in a special education
7 program for learning issues from kindergarten through
8 high school, saw a psychiatrist till the age of 12 when
9 he was -- when his mother took him to address, I love
10 this, anger management issues. Anger management.
11 Clearly that counseling didn't help any. Anger
12 management.

13 It was after that when the crime spree of
14 violence begins for Pharoah Morris. So counseling and
15 anger management didn't have any one bit effect on
16 Morris at all. He couldn't manage his anger and what
17 he did wasn't proper. He took out his anger by
18 shooting someone. By killing someone. That's how he
19 dealt with anger issues, Pharoah Morris.

20 He'd been diagnosed a long time ago with
21 bipolar disorder. He doesn't take any medication. At
22 least not any longer. Has depression. Well, who
23 wouldn't be depressed being in the county jail or in
24 the penitentiary serving a lot of time? Anybody would

1 be depressed under those circumstances.

2 According to the defendant he was
3 hospitalized at Hartgrove Hospital three times, ages
4 12, 13, and 14.

5 According to him he's attempted suicide when
6 he was 15, 17 and 18 although there's no real proof
7 that that occurred other than Pharoah Morris saying so.
8 He supposedly attempted suicide 25 more times while he
9 was in the Cook County Jail. Again, the last -- for
10 those alleged suicide attempts either.

11 First used alcohol when he was 9. Vodka and
12 Hennessy. Wow. That's strong stuff. Vodka and
13 Hennessy at age 9.

14 No one concern -- no one could express
15 concern about him according to the PSI by using vodka
16 and Hennessy but he took it at a young age.

17 Smoked marijuana at the age of 11. Five
18 blunts a day. So he smoked a joint now and then. That
19 was in the substance abuse program. I already talked
20 about the letters how they think it was serious
21 mistakes on Pharoah Morris' part.

22 In June of 2012 -- I mentioned this case
23 before. I didn't give you a date however. Supreme
24 Court decided in Miller versus Alabama, 567 U.S. 460

1 which held that imposing on a juvenile offender a
2 mandatory sentence of life imprisonment without the
3 possibility of parole, without the possibility of
4 parole, without consideration of defendant's youth and
5 attendant certain characteristics violated the 8th
6 Amendment. And, again, it emphasis without parole.
7 Without parole.

8 The Court in Miller further stated, a state
9 is not required to guarantee freedom. It must provide,
10 quote unquote, some meaningful opportunity to obtain
11 release based on demonstrated maturity and
12 rehabilitation. Quoting a case called Graham,
13 G-r-a-h-a-m, Graham, 46- -- 560 U.S. 75.

14 I've considered Pharoah Morris' youth and
15 attendant circumstances very well. I heard the case
16 the first time. I sentenced him the first time. I
17 sentence him again. We'll do that shortly now.

18 The Miller court, as I said before, does not
19 preclude the possibility for the life sentence actual
20 or de facto as long as the sentence was not mandatory
21 and the sentencing court had the opportunity to make a
22 through assessment of defendant's -- of the defendant,
23 his youth and other attendant circumstances before
24 imposing sentence.

1 I (indecipherable) consider regarding Pharoah
2 Morris what I've already done. Every single thing
3 that's come up regarding Pharoah Morris I've considered
4 it, his youth and attendant circumstances.

5 He didn't come up the best. I'll give him
6 that much. However, I cannot justify murder however.
7 A lot of guys come up in situations not the best.
8 Their father is not around. He's in prison somewhere.
9 His mother is not the greatest. Stuff like that. It
10 doesn't justify or even excuse murder as a matter of
11 fact or mitigate murder I should say. I've certainly
12 considered those things.

13 Effective June 1st, 2019 -- what's the case?
14 Of course would apply since we're now in 2021 in
15 December. Unified Code of Corrections --

16 Pardon my cell phone. There's something that
17 I want to read into the record in a minute. That's why
18 I put on my cell phone.

19 Unified Code of Corrections, 730 ILCS
20 5/5-4.5.110, is that provides that for most crimes a
21 person such as Pharoah Morris in this case was under
22 the age of 21 at the time the crime was committed. We
23 know that Morris was 16 at the time. He's well under
24 21, was given a lengthy prison sentence with a -- and

1 the ability to petition for parole after serving 20
2 years.

3 If his bid for parole of 20 years is
4 unsuccessful he can apply again after an additional 10
5 years and the parole statute -- I'm going to read it
6 part into the record in a minute or two -- is very
7 broadly in favor of those inmates who are 16 at the
8 time of the crime and that the law applies on -- about
9 the parole situation.

10 I would've written it out last week. I was
11 sick last week. I didn't come in at all so I didn't
12 have a chance to write it up. But the parole statute
13 for juveniles which would apply to Pharoah Morris, a
14 person under the age of -- under 21 years of age at the
15 time he commits the offense or offenses is eligible for
16 parole, review by the Prisoner Review Board for serving
17 in the case of first-degree murder and sexual
18 assault -- forget about that for now -- and serving 20
19 years or more of his sentence or sentences. And,
20 again, I said before, if he doesn't make it after the
21 20 years he can reply again after 10 more which will be
22 30 all together if he gets out after that period of
23 time. It'd be less than the 40 talked about in Buffer.

24 Interestingly enough the parole statute for

1 juveniles applies. That's where all things which are
2 really favorable to the person seeking parole, even
3 someone like Pharoah Morris or a matter of fact --
4 especially someone like Pharoah Morris. It looks like
5 this law was written with Pharoah Morris in mind.

6 Three years prior to becoming eligible for
7 parole review, eligible person may file his or --
8 petition parole review with the Prisoner Review Board.

9 Petitioner shall include a copy of the order
10 of commitment and sent to the Department of Corrections
11 for the offenses -- or offense which he -- reviewer
12 sought.

13 Within 30 days of receipt of this petition
14 Prison Review Board shall determine whether the
15 petitioner has appropriately filed and if so to set a
16 date for parole review three years from receipt the
17 petition notified Department of Corrections within 10
18 days.

19 The prison re- -- board determines petitioner
20 has not appropriately filed, notify the petitioner in
21 writing including the basis for determination.

22 So the way I read this and I think it's
23 properly read by me, when 17 years goes by Morris can
24 appeal to the Parole Prison Review Board for parole.

1 There will not be a hearing for three years after that
2 but within six months Prison Review Board determines
3 the petition was properly filed. Okay. Respect --
4 with respect, Department of Corrections to meet with
5 the eligible person, provide the inmate information
6 about the parole hearing process and personalized
7 recommendations for the inmate regarding his or her
8 work assignments, (indecipherable) programs,
9 (indecipherable) behavior.

10 (Indecipherable) eligible person has seven
11 calendar days, file written requests representative
12 from DOC. (Indecipherable) eligible person of any
13 additional program services, eligible person believes
14 should be made available to appear for return to the
15 community.

16 One year prior to the person being eligible
17 for parole counsel should be appointed by the Prison
18 Review Board. One year before parole hearing upon a
19 finding of in- -- well, there's no question the
20 defendant is indigent.

21 Eligible person may waive appointed counsel
22 or retain his own counsel at his or her expense. So
23 well before the hearing itself he's appointed an
24 attorney to represent him at the parole hearing which

1 is coming up.

2 Nine months prior to the hearing the Prison
3 Review Board shall provide the eligible person and his
4 or her counsel any written documents or materials in
5 considering in making his decision. That's written
6 documents or materials and is (indecipherable)
7 to certain exceptions.

8 Include information which is disclosed would
9 damage the therapeutic relationship and the inmate to
10 the mental health professional. (Indecipherable) the
11 actual risk of physical harm. Threaten the safety or
12 security of the department, institution or an
13 institution.

14 Victim impact statements would
15 (indecipherable) to the board if any (indecipherable)
16 confidential. They'll be given to defendant and the
17 lawyer obviously.

18 Inmate or his attorney shall not be given a
19 copy of the statement to keep -- informed
20 (indecipherable) victim impact statement taken by the
21 position at inmate's request for parole.

22 Not less than 12 months prior to the hearing
23 Prison Review Board shall provide notification to the
24 State's Attorney of Cook Cou- -- of the county which

1 the person was committed. The notification to the
2 victim or family of the victim to schedule a hearing,
3 place, date and the approximate time.

4 Written notification are contained the
5 following information. Information about their right
6 to be present, appear in person at the parole hearing,
7 their right to make any oral statement and submit
8 information in writing by videotape, tape recording or
9 other electronic means. The toll free number to call
10 for further information about the parole review
11 process, information regarding available resources
12 including trauma informed therapy they may access.

13 If the Board does not have knowledge of the
14 current address of the victim or family of the victim
15 shall notify the State's Attorney at the county of
16 commitment and request assistance in locating the
17 victim or family of the victim.

18 Those victims or family of the victims
19 would advise the board in writing along in which be
20 notified upon received future notices.

21 The victim have certain rights to submit
22 information by videotape, tape recording, other
23 electronic means. The victim may submit this material
24 to active parole hearing. The victim also has the

1 right to be heard at a parole hearing. Hearing
2 conducted by the Prison Review Board should be governed
3 by sections -- let's talk about what sections it
4 applies of the Open Parole Hearings Act.

5 Eligible person has the right to be present
6 at Parole Prison Review Board hearing. Prison Review
7 Board determines the other person presence is unduly
8 burdensome. (Indecipherable) the hearing under the
9 statute.

10 Psychological evaluation is submitted for the
11 Prison Review Board's consideration to be prepared by a
12 person of expertise in adolescent brain development and
13 behavior to obtain any sort of -- diminished capacity,
14 diminished culpability, youthful offenders. Hallmark
15 (indecipherable) of youth. Any subsequent
16 (indecipherable) for increased maturity of the person.
17 At the hearing eligible person has a right to make a
18 statement on his or own behalf.

19 Upon motion -- only upon motion for good
20 cause to the review board hearing be changed. Notice
21 in 15 days prior to the hearing. Prison Review Board
22 shall notify the victim or victim's representative, the
23 attorney, the other person, exact date, time of
24 hearing. All hearings shall be open to the public.

1 Prison review board shall not
2 (indecipherable) the eligible person determine that.
3 The chance or risk that the other person will not
4 conform (indecipherable) parole or after care release.

5 Eligible persons released at that time
6 (indecipherable) of his offense or her offense, no
7 disrespect to the law. Other persons released would
8 have essential adverse effect (indecipherable)
9 discipline.

10 This is the part that's -- that'll have to --
11 that will consider I should say.

12 In considering the factors effective
13 (indecipherable) determination the Prison Review Board
14 to consider the diminished culpability of youthful
15 offenders, hallmark features of youth, any subsequent
16 growth or maturity youthful offender during
17 incarceration.

18 Granted parole and be released from custody
19 and on the murder will be 10 years. Mandatory release
20 after he's released from custody. He does the 10 years
21 then the sentence is over with if he got that far.

22 If he doesn't make parole after 20 years he
23 goes back 10 years later for another parole hearing.
24 The same procedure the second parole hearing. That's

1 pretty much it. I didn't want to read the entire
2 statute about parole, but I believe based on the
3 language of the cases, talking about Miller versus
4 Alabama, all the other ones that I mentioned before
5 that the parole hearing gives Pharoah Morris at least a
6 meaningful chance of being released from prison at some
7 day or another. Whether it's in 20 years, maybe it's
8 in 30 years. Maybe it's not at all. At least he has
9 the opportunity to show he's been rehabilitated while
10 in custody.

11 I may have wrote something out because I
12 wrote a lot of things and going through it, go through
13 a crime like this but in a situation like this, you
14 know, people say, well, does the judge have to be
15 neutral and you can't show any emotion whatsoever.
16 It's hard not to do that when you have a crime
17 involving a 16 year old boy who was murdered not to be
18 somewhat emotional about it but regardless how
19 emotional I might feel about Pharoah Morris it's
20 nothing personal. I don't like the crime he committed
21 or crimes he committed. I have no beef with Pharoah
22 Morris whatsoever.

23 However, as I said it, he makes parole. He
24 makes parole. And all that is done with the viewpoint

1 of the case law that's coming out the last few years.
2 Juveniles are different than adults. And the case law
3 pretty much says, according to Alabama, at least give
4 him a chance of getting out. That's all the law
5 requires. A chance.

6 Maybe he'll get out. Maybe he won't. That
7 will largely be up to Pharoah Morris if he gets out
8 again. It may be a while. It may not be ever, but if
9 he ever does get out it's because he's chosen to do the
10 right thing now.

11 Chances are he doesn't get along in prison
12 again, has beef with the guards in prison, other
13 inmates in prison, all kinds of nonsense stuff while in
14 custody, chances are he won't get out. But the parole
15 statute gives him at least a chance which is all the
16 law requires, a chance of getting out. And since the
17 law now says, a sentence with parole, it doesn't
18 violate Miller at all or the other cases either.

19 As Miller and the other cases say, sentence
20 of life without parole. This a chance of him getting
21 out with parole. I'm not suggesting that Pharoah
22 Morris should get out. That's not up to me however.
23 That's up to the Prison Review Board at some point down
24 the road if he chooses to ask for parole. Whether he

1 gets it or not that will be up to the parole -- Prison
2 Review Board at some point or another. And I'm sure,
3 as hard as it will be for Goss' father to testify at
4 the first sentencing and again at this one he will
5 probably be there for any future parole hearings for
6 Pharoah Morris.

7 One more comment and I'll be done talking for
8 today. I'm talking about the lawyers talking too long.
9 That applies to me as well.

10 There's a statute that talks about
11 considerations to take which I have done and there --
12 I've considered all these different things. I think
13 they come from a case versus Hol- -- I'm not sure but
14 they're statutory considerations.

15 The person's age, impetuosity, level of
16 maturity at the time of the offense including the
17 ability to consider risk and consequences of behavior,
18 the present and cognitive or developmental disability
19 or both if any.

20 Age. Yeah, 16.

21 Impetuosity. These are thought out crimes.
22 Not impetuousness. He goes up to the guys on the
23 street and shoots and kills one and shoots the other.
24 I'm not sure what impetuosity has to do with that

1 whatsoever.

2 Level of maturity. Well, Morris, for a 16
3 year old, was quite mature, and that's shown by his
4 conduct at the jail. I want those witnesses taken care
5 of. That shows conscientious thought on his part.

6 Maturity. I don't want to be here forever.
7 Get those people knocked off. Fortunately it didn't
8 happen.

9 Present and cognitive or developmental
10 disability. Well, special education classes.

11 B, whether a person is subject to outside
12 pressure including peer pressure, familial pressure,
13 negative influences. While it's true that Morris says
14 at the time of the incident or around that time at
15 least he was a member of a gang. (Indecipherable)
16 influenced one way or the other.

17 Two guys walking down the street from school.
18 One guy riding his bike. Witnesses might've
19 (indecipherable) something he had about the case
20 itself. There's no peer pressure on Pharoah Morris.

21 Familial pressure. Well, like I said before,
22 his mother didn't treat him the best. No pressure on
23 her part to go out and kill somebody however. She
24 wrote a very nice letter on Morris' behalf

1 acknowledging she wasn't the best mother to Pharoah
2 Morris but also sort of saying, well, a lot of pressure
3 on Morris. That's sort of a mistake, you know. Give
4 him another chance. A mistake.

5 The person's family, home environment,
6 educational, social background, including a history of
7 parental neglect, physical abuse, other childhood
8 trauma. Well, he was neglected by the mother and women
9 he had to deal with sexually at his young age according
10 to Pharoah Morris.

11 Potential -- first potential for
12 rehabilitation, evidence of rehabilitation or both.
13 I'd say he hasn't shown it so far.

14 He said crimes committed while he's in
15 custody. One would see that if a guy is in custody
16 awaiting trial or awaiting resentencing he'd be a model
17 prisoner. He wouldn't want to get into it with the
18 guards at the penitentiary or the guard at the jail or
19 an inmate in prison somewhere. You want to be a model
20 prisoner, rehabilitate, do your best you can to get out
21 at some point or another.

22 Now he has that incentive. He might get out
23 someday possibly. That's more or less Pharoah Morris'
24 choice to a large extent.

1 Person degree of participation, his role in
2 the offense including level of planning by the
3 defendant before the offense.

4 Well, role of the offense? Not that he's
5 (indecipherable) of somebody else killing DeAntonio
6 Goss. He killed the boy himself. There is no
7 accountability issue there. Participation is he was
8 the murderer. That's the participation of Pharoah
9 Morris.

10 Planning. Well, who knows about the planning
11 part. He walked up to two guys on the street with a
12 gun on him. Maybe he had some bad thoughts already.
13 Whether it was planned or not who knows.

14 Able to participate in his or her defense.
15 Well, he had a good lawyer at trial putting forward
16 (indecipherable). Lawyers cannot change the evidence
17 in a given case. They could put a little different
18 spin on it. They can't change it.

19 Like the great Peggy Lee once said, what it
20 is is what it is. Evidence was he shot Floyd while the
21 guy is riding his bicycle. No reason. The evidence is
22 he shot Goss and Goss' friend for apparently no reason
23 either. He tried to get the witnesses killed. Got
24 into it with the guards at DOC. Got in with the guard

1 at the jail. Got into with an inmate in prison. He
2 was (indecipherable) to participate in his trial. It
3 was suggested otherwise. Well, the mother sort of
4 implies that but there's no (indecipherable)
5 whatsoever.

6 The person's prior juvenile or criminal
7 history. Well, even according to the mother there was
8 nothing but that's not true. At the time of the murder
9 he was on probation for aggravated robbery. A crime,
10 the definition of which taking property from a person
11 (indecipherable) by the use of force or threat of force
12 indicating further or otherwise armed with a weapon.
13 That's why it's not an armed robbery. Make the guy
14 think it is however. Give me your stuff, man,
15 otherwise I've got a gun in my pocket or knife in my
16 pocket. Bad things would happen.

17 Aggravated robbery. Claiming you have a
18 weapon but you actually don't have one or none is
19 actually recovered.

20 Prior juvenile history I already mentioned
21 that the basis for aggravated robbery. Other
22 information the Court finds relevant and reliable
23 especially Morris for form (indecipherable). Well,
24 he's not said anything in court. I won't hold that

1 against him one twit. By his conduct, however, for
2 what he's done he's not shown any remorse whatsoever.
3 Not that he didn't say anything in court. I don't care
4 about that in the slightest. I cannot say that at all
5 that he didn't say anything. He didn't say anything.
6 He didn't say anything. I don't care. It's what it --
7 it's what he's done that shows you he has no remorse.
8 None. It's one thing after another for Pharoah Morris.
9 Either on the street, in the penitentiary, in the
10 county jail, wherever else he could find a suitable
11 victim and he found plenty.

12 The question is now he's eligible for parole
13 which he wasn't before. The sentence went into effect
14 after he was convicted already. And as the case -- I
15 just read it recently. I have it somewhere. I can't
16 find it for the moment. He's elected to be
17 (indecipherable) to the law as it is now. The case was
18 based (indecipherable) he elected or not. The law
19 applies now. I'll find it eventually. It's somewhere.

20 The 5th District it was a Rule 23 but they
21 asked that it be published. I think it's back or
22 something like that. I have it somewhere. I can't
23 find it for the moment.

24 He's chosen the laws that effect is now

1 which now means -- whatever sentence he gets eligible
2 for parole in 20 years. If not, doesn't make it in 10
3 more after that. Doesn't make it 10, c'est la vie.
4 He'll be doing the entire sentence at that point.

5 The courts are very good reason to
6 (indecipherable) to begin with. Nature of the crime.
7 Participates in the crime by Pharoah Morris but things
8 have gotten worse since then.

9 Morris committed crimes after the murder in
10 this case. The guards in the penitentiary, inmate at
11 the penitentiary so certainly the sentence will not be
12 any less and it certainly under the law it cannot be
13 anymore I don't think. The fact that he's
14 (indecipherable) to begin with is appropriate under the
15 circumstances.

16 Since he has a chance to get out on parole at
17 some point or another it doesn't violate Miller at all.
18 Miller talks about life without parole. That's not
19 Pharoah Morris anymore. He might get out. Up to the
20 Prison Review Board. It's almost a scary thought but
21 nonetheless that's up to the Prison Review Board at
22 some point or another.

23 The Court will impose sentencing impose to
24 begin with.

1 Mr. Allen, I've forgotten the exact numbers.
2 How did they turn out for the murder of Antonio Goss.

3 MR. ALLEN: It is 55 on the murder and 25 on the
4 attempt murder.

5 THE COURT: Actually, Mr. Goss' first name was
6 DeAntonio; correct?

7 MR. ALLEN: DeAntonio Goss. Corey Thompson and
8 DeAntonio Goss.

9 THE COURT: I think the parole statute for
10 juveniles is probably the best thing in the world that
11 ever happened to Pharoah Morris. At least it gives him
12 a chance of getting out. That's all the law requires,
13 a chance to get out. It doesn't say you have to get
14 out. It doesn't say you will get out. You have a
15 chance to get out.

16 Court will impose the sentence it did before.
17 55 years for the murder DeAntonio Goss. 45 consecutive
18 for the attempt murder of Corey Thompson. Consecutive
19 to each other. A total of 100 years.

20 However, under the law he's eligible for
21 parole after 20. Whether he gets it or not I will not
22 speculate one way or the other. It's not up to me at
23 all at that point. Further credit he has coming, you
24 get credit for that plus three years MSR on the --

1 MR. GAEGER: Juge, I have that credit.

2 THE COURT: Pardon?

3 MR. GAEGER: I have that credit.

4 THE COURT: How much is that?

5 MR. GAEGER: 4,117 days.

6 THE COURT: That's the date of arrest until now?

7 MR. GAEGER: Yes, sir.

8 THE COURT: All right. 4,117 days.

9 Actually part of the sentence he will not be
10 doing a hundred percent. Attempt murder of Corey
11 Thompson is 85 percent so it turns out to be somewhat
12 less than a hundred years all together, but nonetheless
13 it's substantial. It's what the statute says. The
14 parole statute enacted by the governor recently.
15 Another effort to deal with juvenile offenders that he
16 might, might get out and that use of the word might is
17 very questionable on my part.

18 Mr. Morris, how old are you 25 or 6 now?

19 THE DEFENDANT: 27.

20 THE COURT: 27. Okay. At least there's one
21 difference between you and DeAntonio Goss
22 unfortunately. The only place his father, who's
23 sitting in front of me today and he was last time as
24 well, to see DeAntonio Goss is on pictures or at the

1 cemetery or videos of his son. He can't see him in
2 life any longer.

3 People could see you in life. They can visit
4 you in the penitentiary. They can see you there.
5 Depending on where you're at maybe they could even
6 reach across and touch or kiss you. I don't know.

7 You had it all going on, Mr. Morris. 16 year
8 old at the time, Antonio Goss.

9 At least one thing, Mr. Morris, every year
10 you'll get a year older. Antonio Goss never gets
11 older. He was 16 at the time. 16 years old. I feel
12 compassion for the family of Antonio Goss. Father has
13 gone -- had gone through this twice already talking
14 about his son, coming home from school and getting
15 murdered by you.

16 At least I see your girlfriend out there,
17 Mr. Morris. Maybe she'll wait for you till you get out
18 if that ever happens.

19 You have the right to appeal the Court's
20 sentence of a hundred years Department of Corrections,
21 plus 3 years MSR once you get out. You get credit for
22 4,117 days.

23 You feel that something said (indecipherable)
24 severe, improper for any reason to file a motion to

1 reconsider your sentence. If you wish to file an
2 appeal the appellate court can deal with the issue
3 about the sentence.

4 Mr. Gaeger --

5 Mr. Morris, I should say. Let me start off
6 that way. Mr. Morris, you had an excellent lawyer.
7 Mr. Gaeger is one of the best I've seen in my 30 years
8 in this building. I know he feels frustrated,
9 frustration sitting where he's sitting at right now
10 because he's done the best he poss- -- with what he had
11 to work with. You're still going away for a long time
12 if not perhaps forever.

13 But I said before, every day you serve in
14 custody, Mr. Morris, you've earned every single day of
15 it. I never had a case before where someone -- so the
16 guy's not dead because the guy who shot him was only
17 16. Goss was only 16 years also. What a tragic waste.

18 Anything else, Mr. Gaeger?

19 MR. GAEGER: Judge, since it's my client's
20 statutory right I seek leave to file written motion to
21 reconsider sentence. I filed it before. I've tendered
22 it to counsel. I'd like to follow and have that heard
23 instanter for all the reasons that I had mentioned in
24 my original sentencing hearing. I --

1 THE COURT: All right.

2 MR. GAEGER: -- reconsider that motion.

3 THE COURT: All right. I think I went through a
4 lengthy discussion about the sentence for Pharoah
5 Morris.

6 The appellate court said I've been wrong
7 before. I don't think I'm wrong this time but if they
8 think I'm wrong they'll say I'm wrong. That's as
9 simple as that.

10 MR. GAEGER: Based on that --

11 THE COURT: No one claims to be perfect. I don't
12 (indecipherable) to be perfect either so I did the best
13 I could. I think my sentence for Mr. Morris is
14 appropriate sentence. So under the law I think it
15 applies to the case of Mr. Pharoah Morris.

16 Motion to reconsider sentence is denied as to
17 Pharoah Morris.

18 MR. GAEGER: Thank you, Judge. Based on that we
19 seek that a motion of appeal be filed. I tendered one
20 to the clerk and I ask the public defender be
21 appointed.

22 THE COURT: Actually, I forgot to --

23 Mr. Morris, did you want to say anything? I
24 forgot to ask you before. You didn't say anything last

1 time so never mind.

2 Anything else, Mr. Allen? Mr. Allen,
3 anything else? Mr. Allen, anything else?

4 MR. ALLEN: No, your Honor.

5 THE COURT: People DOC, where is Mr. Pharoah
6 Morris being held at? Where is he at? What
7 institution is he at?

8 A DOC OFFICER: Pontiac Correctional Center.

9 THE COURT: Pontiac. What's that about, three or
10 four hour trip from here?

11 All right. Have a safe trip back to Pontiac,
12 Mr. Morris, and gentlemen.

13 THE DEFENDANT: You just asked me if I wanted to
14 speak right now.

15 THE COURT: Actually, I was wrong because you
16 spoke -- had a chance to speak last time but since
17 you --

18 What do you want to say?

19 THE DEFENDANT: It's okay if I stand?

20 THE COURT: Sure. It won't change what I've
21 already said but since you want to say something go
22 ahead.

23 THE DEFENDANT: You said -- you stated that I
24 was -- I was arrested several times in the penitentiary

1 and Cook County Jail when I wasn't. I was not at all.
2 I was only arrested coming -- I only took time for one
3 time I was in the penitentiary. A person attacked me
4 and I was defending myself but that's neither here or
5 there but at the same time I have changed. I never did
6 anything wrong. I never got into a fight whatsoever at
7 all in high school. I never been in trouble at all.

8 You stated during the facts. I was never
9 arrested for Marvin Floyd case. My name came up that I
10 was the shooter. I went to the place. I was -- I
11 turned myself in and I asked them did I do that. They
12 didn't come and snatch me up. They didn't come and --
13 come looking for me. I came to them myself. I didn't
14 do nothing to that man.

15 You also stated that his son -- I know his
16 son. I went to Selevin (phonetic) with him.

17 THE COURT: What school? Sullivan?

18 THE DEFENDANT: Selevin. It's -- I'm -- not
19 Selevin. Vivian Summers. Vivian Summers. His son
20 went to Vivian Summers.

21 THE COURT: Okay.

22 THE DEFENDANT: His -- Vivian Summers. Coles, I
23 went -- he know -- his son is Corey. They best
24 friends. That's my friend. I knew his son. I never

1 talked -- I told you who the person -- who killed the
2 man that they found him guilty. His name is Lacey
3 Shepard. That man came home.

4 THE COURT: Yeah, you told us that.

5 THE DEFENDANT: They killed that man. He dead
6 right now. He was home 90 days. They killed that man.
7 Only reason why I decided to say none of that, I'm not
8 no snitch. I was there. I was there. I seent (sic)
9 the crime but that ain't my business. It ain't my
10 business now.

11 You gonna say how you feel. You say it's not
12 a reason. I was 19 years old, man. You gave me 120
13 years and you stand here and a couple weeks ago --

14 THE COURT: Actually, 100. Not 120.

15 THE DEFENDANT: It -- well in the paperwork it
16 said 120 years.

17 THE COURT: We'll make it -- we'll correct it.

18 THE DEFENDANT: It said 120 years but --

19 THE COURT: If it -- we'll make it 100 instead of
20 120.

21 THE DEFENDANT: And you stated that it was a joke.
22 That's my life. In ain't no joke, man.

23 THE COURT: I didn't say it was a joke. I don't
24 know what you're talking about.

1 THE DEFENDANT: You stated when I was -- when I
2 came back here you stated that, that I gave you 120
3 years. That's it. It's a joke. It wasn't a laughing
4 moment. Every day I come in this place I try to hold
5 myself knowing that I didn't even do nothing, man. You
6 sit here and say I killed that boy. Man, I didn't did
7 nothing to that man. I don't have no reason to fight
8 that man. Fight that man, shoot that man, nothing. I
9 never got in no trouble whatsoever, man. I was going
10 to school. I was -- I was on track. I ran.

11 Everything, man. I ain't did nothing to nobody, man.

12 You stay in here in this prison, in this
13 jail, them people in there raping niggers, rape --
14 excuse me. They rape -- in there raping boys. I was
15 17. What you expect me to do? They try to take my
16 food the first day I came through the door. They had
17 gym shoes and all that. They taking that stuff from
18 people. What you want me to do? Just let them take my
19 stuff? Let them cheat me? Let them beat me? You
20 rather me to be dead instead of somebody else, right?
21 You sitting here pointing fingers.

22 THE COURT: Slow down a second.

23 THE DEFENDANT: You said -- you say when that
24 case, man, it was no -- there was -- nobody that got on

1 that stand said they -- seen shoot that boy. Nobody.
2 And yet you sit here and you say that they say that I
3 did that shit. Excuse my language. That I did that.
4 And I ain't did nothing, man. That's only -- the only
5 reason -- I wasn't even gonna speak right now today at
6 all. Only reason why I did is because that lady right
7 there, man.

8 THE COURT: Your girlfriend you mean?

9 THE DEFENDANT: That's my fiancée.

10 THE COURT: I'm sorry. Your fiancée. Excuse me.
11 Okay.

12 THE DEFENDANT: It's just a problem, man. I tried
13 to hold my tone the best way I can through this place
14 and keep my head down as best way that I can.

15 You sitting here and say about these guards.
16 You ain't in there, man. You must never been in there.
17 Take control and see what they do in there. It ain't
18 nothing to take a visit in there. You come here every
19 day but it is what it is though. I'm gonna take my
20 time. Whatever you give me I'm gonna take it like a
21 champ.

22 THE COURT: Okay. Anything else, Mr. Morris?

23 THE DEFENDANT: I'm fine. Thank you.

24 THE COURT: All right. Fine.

1 You can take him back.

2 MR. GAEGER: Judge -- your Honor, I seek leave to
3 file motion of appeal.

4 THE COURT: You can do that also.

5 Mr. Morris, if you act right you might get a
6 chance to get out someday.

7 MR. GAEGER: With the possibility of parole.

8 THE COURT: Okay. Take Mr. Pharoah Morris back to
9 Pontiac.

10 Get a mittimus for you in few minutes.

11 Ms. Reporter, Pharoah Morris has two more
12 cases. They're motion, State, nolle pros.

13 (Which were all the proceedings had
14 in the above-entitled cause.)

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People v. Morris, 2017 IL App (1st) 141117

Appellate Court
Caption

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v.
PHAROAH MORRIS, Defendant-Appellant.

District & No.

First District, Second Division
Docket No. 1-14-1117

Filed
Modified upon denial
of rehearing

March 28, 2017
May 2, 2017

Decision Under
Review

Appeal from the Circuit Court of Cook County, No. 10-CR-17983; the
Hon. Stanley J. Sacks, Judge, presiding.

Judgment

Remanded for resentencing.

Counsel on
Appeal

Michael J. Pelletier and Melinda Grace Palacio, of State Appellate
Defender's Office, of Chicago, for appellant.

Kimberly M. Foxx, State's Attorney, of Chicago (Alan J. Spellberg,
Peter Fischer, and Margaret M. Smith, Assistant State's Attorneys, of
counsel), for the People.

Panel

JUSTICE PIERCE delivered the judgment of the court, with opinion.
Presiding Justice Hyman and Justice Neville concurred in the
judgment and opinion.

OPINION

¶ 1 Defendant, Pharoah Morris, who was 16 years old at the time of the offense, was convicted of first degree murder, attempted murder, and aggravated battery with a firearm following a jury trial. He was sentenced to an aggregate sentence of 100 years in prison. Defendant appeals, arguing that (1) he received a *de facto* life sentence without meaningful consideration of mitigating circumstances, (2) the applicable sentencing statutes that mandate firearm enhancements are facially unconstitutional under the federal and Illinois constitutions and under the Illinois Constitution as applied to him, (3) section 5-130(1) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/5-130(1) (West Supp. 2015)), which automatically transfers 16-year-olds charged with murder and attempted murder to adult court, therefore subjecting them to mandatory adult sentencing, violates the Federal and Illinois Constitutions and due process, and (4) he is entitled to a new sentencing hearing under the newly enacted section 5-4.5-105 of the Unified Code of Corrections (Code) (730 ILCS 5/5-4.5-105(a), (b) (West Supp. 2015)), which requires trial courts to consider certain factors before sentencing and gives trial courts discretion to impose firearm enhancements for individuals under 18. For the reasons that follow, we remand for resentencing.

¶ 2 BACKGROUND

¶ 3 On September 8, 2010, Pharaoh Morris fatally shot DeAntonio Goss and attempted to kill Corey Thompson. Defendant was charged with first degree murder, attempted murder, and aggravated battery with a firearm.

¶ 4 Prior to trial, the State filed two motions to admit proof of other crimes. According to the first motion, Marvin Floyd was shot in the back on August 21, 2010, while riding his bicycle near a gas station. Defendant was identified as the offender. Subsequent testing of the .45-caliber bullet recovered from Floyd's body and the .45-caliber bullet recovered from Goss's body revealed that both bullets were fired from the same gun. The State's motion sought admission of this evidence to show identity and absence of mistake.

¶ 5 The second motion stated that while at the Cook County jail, defendant discussed his pending murder case with his cellmate, Ricky Whitehead. Defendant approached Whitehead with a list of the witnesses in his pending case, each name listed with their respective address and date of birth, and asked Whitehead if he could "take care of them." Understanding this to mean defendant wanted them killed, Whitehead gave the list to sheriff investigator McCoy. The investigator assigned an officer to act as a hitman and introduced both him and defendant over a taped phone call. Defendant asked that the undercover officer come to the jail. Once at the jail, the officer recorded his conversations with defendant, who gave him a list of names and asked that he "get rid of them." The State sought to admit this evidence of the solicitation to show defendant's consciousness of guilt.

¶ 6 The trial court held that the evidence of the shooting of Floyd and the evidence of the ballistics match admissible as proof of identity. The court also held admissible the solicitation of murder evidence to prove consciousness of guilt.

¶ 7 At trial, Marvin Floyd testified that on the date he was shot, August 23, 2010, he had known defendant for about three years. Floyd testified that on the afternoon of August 23, 2010, he was riding his bike to the gas station near his home when he saw defendant at the gas

station. He testified that he saw a gun under defendant's pants and tried to flee on his bike but was shot in the back. He stated he was taken to the hospital where he stayed for two months and underwent two surgeries.

¶ 8 Corey Thompson testified that on September 8, 2010, after attending class at Bowen High School, he was walking home with his friends, among them DeAntonio Goss. At some point, Thompson and Goss reached the street corner of 86th Street and Saginaw Avenue and saw that defendant and his friend, Lacy Sheppard, were also there. Defendant began speaking to Thompson and Goss and said, "This is what y'all want, this is what y'all going to get," and pulled out a gun and pointed it at Thompson. Thompson testified that he began running back toward school while noticing Goss running in a different direction. Thompson stated that as he was running he heard gunshots and then suddenly felt something hit him in his buttocks. Thompson stated he felt pain and fell down, but then got up to keep running before beginning to feel drowsy, weak, and unable to run anymore. He testified he lay down in the middle of the street, heard Goss say, "CJ, where are you, where are you, are you okay?" and then observed Defendant head toward Goss's voice. Thompson testified he then heard a few more gunshots before passing out. Thompson was taken to the hospital where he stayed for three weeks and underwent two surgeries.

¶ 9 Ricky Whitehead testified that he was defendant's cellmate at the Cook County department of corrections. He stated that while there, defendant gave him a list of the names of witnesses in defendant's pending trial and asked if he could "take care of them." Whitehead testified he understood this to mean defendant wanted them killed and subsequently gave the list to Investigator McCoy.

¶ 10 Eric Bucio testified that he is an instructor at the Cook County jail complex. He stated that on August 9, 2012, he was assigned to investigate defendant. He testified that he recovered a list of witness names from defendant's personal items.

¶ 11 Hilary McElligott, an assistant medical examiner for Cook County, testified that she examined Goss's body. The bullet that caused his death entered the back of his right arm, exited on the other side of the arm, and entered his body again on the right side of his chest.

¶ 12 Patrick Brennan, a supervisor with the Illinois State Police Forensic Science Center, testified that the bullet recovered from Floyd's body, the bullet recovered from Goss, and a cartridge case that was found at the scene of the shooting were fired from the same firearm.

¶ 13 The State rested. Defendant did not present any evidence.

¶ 14 After hearing all of the evidence, the jury found defendant guilty of the first degree murder of Goss, the attempted murder of Thompson, and the aggravated battery with a firearm of Thompson.

¶ 15 At the sentencing hearing, the defense argued in mitigation that defendant was a juvenile with a troubled background, a history of mental illness and drug and alcohol abuse, and that he had rehabilitative potential. Defense counsel explained that defendant's father had been incarcerated for much of defendant's life. Defense counsel explained that at the age of 12, defendant began seeing a psychiatrist to address his anger management and was ultimately diagnosed with bipolar disorder for which he received medication. Moreover, counsel pointed out that defendant attempted suicide at the ages of 15, 17, and 18. Finally, defense counsel elicited the fact that defendant began drinking alcohol at the age of 11, followed shortly thereafter with marijuana use, and that by the age of 13 he was drinking 20 glasses of hard

alcohol and smoking five “blunts” of marijuana every day. Defense counsel asked the trial court for the minimum sentence in consideration of these mitigating factors contained in defendant’s presentence investigation (PSI) report.

¶ 16 In allocution, defendant told the court that he did not shoot Thompson, stating that Sheppard did. The record then shows the trial court made the following statements. “I’ve read the PSI dated March 31st, I’ve considered the fact that defendant did not have the best upbringing, it doesn’t justify murder, however. I’ll consider it for what it was worth.” The court went on to say, “The other factors in aggravation and mitigation, I’ve considered all of them. What’s mitigating about Pharaoh Morris? Not much. At the time of the murder, 16 years old, that’s about all that’s mitigating.” In regards to rehabilitation, the court stated:

“Is there room for rehabilitation for Pharaoh Morris? That’s up to him. If he’s rehabilitated he’ll be inside, however. Pharaoh Morris has shown by his conduct two weeks before the incident, the murder of DeAntonio Goss, on the day of the incident ***, which was September 8, 2010, and even thereafter in the jail, I want these people taken [sic] care of *** I like to read the cases, I find little words in each one of them. I think I found ones that apply to Pharaoh Morris. Pharaoh Morris has a malignant heart ***. It applies to Pharaoh Morris, it was written for him. A young guy out on the streets of the City of Chicago with a gun, shooting it up, hitting one guy two weeks before, two guys on the date of the murder, including the murder victim obviously and then I want these people taken [sic] care of. Everybody in the world knows what that means, taken [sic] care of.

There’s some times, Pharaoh, you commit a crime you pretty much forfeit your right to be ever out on the street again, this is one of them. Everything I give you in a few seconds, Mr. Morris, you earned every single day, every single minute, every single second. Maybe you can live a useful life in prison, however, not back on the streets of the City of Chicago.”

¶ 17 The trial court sentenced defendant to consecutive terms of 55 years for the first degree murder and 45 years for the attempted first degree murder, for a total of 100 years in prison.

¶ 18 ANALYSIS

¶ 19 Defendant argues that his sentence of 100 years’ imprisonment is a *de facto* life sentence and is the result of an unconstitutional sentencing scheme in violation of *Miller v. Alabama*, 567 U.S. 460 (2012), as the trial court was precluded from considering his youthful characteristics. He also contends that the applicable sentencing statutes, which mandate consecutive prison terms (730 ILCS 5/5-8-4(d)(1) (West 2010)) and 25-year and 20-year firearm enhancements (730 ILCS 5/5-8-1(a)(1)(d)(iii), 5-8-4(c)(1)(C) (West 2010)) violate the eighth amendment (U.S. Const., amend. VIII) and the proportionate penalties clause (Ill. Const. 1970, art. I, § 11), both facially and as applied to him. He argues that the automatic transfer provision which automatically transfers 15- and 16-year-olds charged with first degree murder and aggravated battery with a firearm to adult court (705 ILCS 405/5-130(1)(a) (West 2010)), thereby subjecting them to mandatory adult sentencing statutes, violates the eighth amendment, the proportionate penalties clause, and due process. Finally, he argues that he is entitled to a new sentencing hearing under the newly enacted section 5-4.5-105 of the Code (730 ILCS 5/5-4.5-105(a), (b) (West Supp. 2015)), which requires the trial court to consider

certain factors before sentencing and gives trial courts discretion to impose firearm enhancements for individuals under 18.

¶ 20

Defendant, who was 16 years old at the time he committed the offenses in this case, was sentenced to 100 years' imprisonment in aggregate for his convictions of first degree murder, attempted murder, and aggravated battery with a firearm. The statutory minimum for first degree murder was 45 years: 20 years for the murder and 25 years for the firearm enhancement. The statutory minimum for the attempted first degree murder was 26 years: 6 years for the underlying Class X felony and 20 years for the firearm enhancement. In total, the minimum prison term the trial court was required to impose was 71 years. The maximum it could impose was natural life: 20 to 60 years for first degree murder plus 25 years to natural life for the firearm enhancement and 6 to 30 years for the underlying Class X felony plus 20 years for the firearm enhancement. Defendant will have to serve 100% of the 55-year sentence and at least 85% of the 45-year sentence, meaning he will serve at least 93 years and 4 months.

¶ 21

The Supreme Court held in *Miller* that the eighth amendment to the United States Constitution "forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile offenders." *Miller*, 567 U.S. at 479. The Court emphasized that in fashioning an appropriate sentence, recognition of youth is the most important consideration. *Id.* at 473. Therefore, criminal procedure laws that fail to adequately account for the offender's youthfulness are flawed. *Id.* at 473-74. The Court explained that children, through both common sense and with the aid of social sciences, are constitutionally different from adults for purposes of sentencing. *Id.* at 471-72. Juveniles have diminished culpability and a greater prospect for reform, and therefore "they are less deserving of the most severe punishments" (internal quotation marks omitted) (*id.* at 471), which, according to *Graham v. Florida*, 560 U.S. 48, 68 (2010), includes life without parole. The Court went on to say:

"First, children have a lack of maturity and an underdeveloped sense of responsibility, leading to recklessness, impulsivity, and heedless risk-taking. [Citation.] Second, children are more vulnerable . . . to negative influences and outside pressures, including from their family and peers; they have limited contro[l] over their own environment and lack the ability to extricate themselves from horrific, crime-producing settings. [Citation.] And third, a child's character is not as well formed as an adult's; his traits are less fixed and his actions less likely to be evidence of irretrievabl[e] deprav[ity]." (Internal quotation marks omitted.) *Miller*, 567 U.S. at 471.

¶ 22

The Court further emphasized the distinctive attributes of youth by emphasizing two main rationales behind sentencing: retribution and rehabilitation. *Id.* at 472-73. First, the Court stated that such youthful attributes diminish the justifications of imposing the harshest sentences on juveniles, even when they commit terrible crimes, because the retribution rationale is rooted in the offender's blameworthiness, which is not as strong with children as with adults. *Id.* at 472. Second, by sentencing a juvenile to life without parole, the court is making a determination that the offender is simply unable to change and will forever be a menace to society. *Id.* at 472-73. But life without parole "forfeits altogether the rehabilitative ideal," and reflects "an irrevocable judgment about [an offender's] value and place in society," which is at odds with a child's capacity for change. (Internal quotation marks omitted.) *Id.* at 473. Only the worst of youth, those who are deemed permanently incorrigible, should be considered for life without parole. *Id.* at 479-80. Mandatory punishment, the Court said, precludes consideration of youth's "hallmark features—among them, immaturity,

impetuosity, and failure to appreciate risks and consequences.” *Id.* at 477. “It prevents taking into account the family and home environment that surrounds him—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional.” *Id.* The Court elaborated on *Miller* in *Montgomery v. Louisiana*, 577 U.S. ___, 136 S. Ct. 718 (2016). The Court reiterated *Miller*’s central holding that life sentences without parole for juvenile offenders pose too great a risk of disproportionate punishment. *Id.* at ___, 136 S. Ct. at 733. *Miller* requires the trial judge to account for how children are different before irrevocably sentencing them to life in prison, and the Court stressed that such an occasion will be uncommon. *Id.* at ___, 136 S. Ct. at 733. *Montgomery* pointed out, however, that even if a court considers a child’s age before sentencing him to life without parole, it still violates the eighth amendment if the crime committed reflects the child’s “unfortunate yet transient immaturity.” (Internal quotation marks omitted.) *Id.* at ___, 136 S. Ct. at 734. Therefore, *Montgomery* held that *Miller* established a substantive rule: all juveniles must have an opportunity to prove they fall within a class of defendants that, because of their status as youths and their attendant circumstances, makes a sentence of life without parole unconstitutional. *Id.* at ___, 136 S. Ct. at 734. It follows that those sentenced to life without parole must be afforded an opportunity to show they are capable of change. *Id.* at ___, 136 S. Ct. at 736.

¶ 23 Subsequently, while this appeal was pending, our supreme court issued its most recent opinion addressing the *Miller* holding in *People v. Reyes*, 2016 IL 119271. In *Reyes*, the court extended the holding of *Miller* to apply to sentencing schemes that mandate an aggregate term-of-years which result in a *de facto* life sentence for juvenile offenders. *Id.* ¶ 9. The court found:

“A mandatory term-of-years sentence that cannot be served in one lifetime has the same practical effect on a juvenile defendant’s life as would an actual mandatory sentence of life without parole—in either situation, the juvenile will die in prison. *Miller* makes clear that a juvenile may not be sentenced to a mandatory, unsurvivable prison term without first considering in mitigation his youth, immaturity, and potential for rehabilitation.” *Id.*

The court held that “sentencing a juvenile offender to a mandatory term of years that is the functional equivalent of life without the possibility of parole constitutes cruel and unusual punishment in violation of the eighth amendment.” *Id.* In order for a court to impose a lengthy sentence, judicial discretion must be applied. *Id.*

¶ 24 Since *Montgomery* and *Reyes*, this court has extended relief to juvenile defendants where the record affirmatively showed that the trial court failed to consider such factors before imposing a *discretionary* sentence of natural life without the possibility of parole in *People v. Nieto*, 2016 IL App (1st) 121604, and *People v. Ortiz*, 2016 IL App (1st) 133294.

¶ 25 In *Nieto*, 2016 IL App (1st) 121604, this court determined that under *Montgomery*, *Miller*’s prohibition against mandatory life sentences without parole for juveniles also applies to discretionary life sentences without parole. Nieto was convicted of first degree murder and aggravated battery with a firearm. *Id.* ¶ 4. Though the defendant’s statutory minimum sentence was 51 years, the trial court chose to sentence defendant to 78 years, 75.3 of which he would be required to serve. *Id.* ¶¶ 12-13. The *Nieto* court recognized that *Montgomery* did not distinguish mandatory life sentences without parole from discretionary *de facto* life sentences and took this to mean that the trial court must consider a juvenile’s special characteristics even when exercising discretion. *Id.* ¶¶ 46, 49. “After *Montgomery*, *Miller* requires that a juvenile

be given an opportunity to demonstrate that he belongs to the large population of juveniles not subject to natural life in prison without parole, even where his life sentence resulted from the trial court's exercise of discretion." *Id.* ¶ 47.

¶ 26 We concluded that because the defendant would not be released from prison until he is 94 years old, he effectively received a natural life sentence without parole. *Id.* ¶ 42. Although the trial court did consider the defendant's young age when imposing sentence, we nonetheless vacated the defendant's sentence because the trial court did not consider the corresponding characteristics of the defendant's youth. *Id.* ¶ 56.

¶ 27 In *People v. Ortiz*, 2016 IL App (1st) 133294, the defendant committed first degree murder at age 15 and was sentenced to 60 years' imprisonment and would be required to serve 100% of his sentence. *Id.* ¶ 24. The record showed that at the sentencing hearing, the trial court recognized defendant had a "difficult upbringing" and that his parents "allowed" him to quit school and associate himself freely with the Latin King gang. (Internal quotation marks omitted.) *Id.* However, the trial court placed more emphasis on defendant's lack of remorse, continued violence while incarcerated, and knowledge of wrongdoing and told defendant that he must be held accountable and pay the price by being incarcerated.

¶ 28 We determined that since the defendant would not be eligible for release until the age of 75 years old, he effectively received a life sentence without parole and adopted *Nieto's* analysis to hold that "for a juvenile's mandatory or discretionary sentence of life in prison without parole to be constitutionally valid, the sentencing judge must take into consideration his youth and attendant characteristics to determine whether the defendant is the rarest of juvenile offenders *** whose crimes reflect permanent incorrigibility" or whether his crimes reflect "unfortunate yet transient immaturity." (Internal quotation marks omitted.) *Id.* ¶¶ 19, 23. In vacating the defendant's sentence, we noted that while the trial court did consider defendant's young age and his personal history, it did not consider the corresponding characteristics of his youth as outlined in *Miller* and *Montgomery* or their effect on his conduct. *Id.* ¶ 25.

¶ 29 We also found support for our holding from the legislature's recent enactment of section 5-4.5-105 of the Code (Pub. Act 99-69 (eff. Jan. 1, 2016)), which provides that for all defendants who commit crimes under the age of 18 on or after January 1, 2016, the court must consider various attendant-youth characteristics before sentencing. 730 ILCS 5/5-4.5-105(a)(1)-(a)(3) (West Supp. 2015); *Ortiz*, 2016 IL App (1st) 133294, ¶ 23. The characteristics to be considered include impetuosity; level of maturity; the ability to consider risks and consequences; whether they were subjected to outside pressures; their home environment; and any history of parental neglect, physical abuse, or other childhood trauma. 730 ILCS 5/5-4.5-105(a)(1)-(a)(3) (West Supp. 2015); *Ortiz*, 2016 IL App (1st) 133294, ¶ 23.

¶ 30 Here, the juvenile defendant's statutorily mandated minimum sentence was 71 years for his crimes. The trial court instead sentenced defendant to 55 years in prison for first degree murder and 45 years in prison for the attempted murder, both to be served consecutively for an aggregate of 100 years' imprisonment. Defendant is required to serve 93.25 years of this sentence, meaning the earliest he is eligible for release will be at the age of 109 years. Using the rationale in *Nieto* and *Ortiz*, we find that defendant has received the functional equivalent of an effective life sentence without parole. This *de facto* life sentence is improper because the trial court did not meaningfully consider defendant's youth and attendant characteristics, as well as their effect on him, as outlined in *Miller* and *Montgomery*, before sentencing him.

¶ 31 The record reveals that defendant had a troubled background, a history of mental illness, and a history of drug and alcohol abuse. Defendant's PSI report showed defendant's father was incarcerated in Wisconsin; that, at the age of 12, defendant began seeing a psychiatrist to address anger management, for which he was diagnosed with bipolar disorder and received medication; and that defendant attempted suicide at the ages of 15, 17, and 18. The PSI report also indicated that at the age of 11, defendant began drinking alcohol and, shortly thereafter, began using marijuana. By the age of 13, defendant was drinking multiple glasses of hard alcohol a day and smoking multiple "blunts" of marijuana.

¶ 32 Looking at the record in its entirety, we are not convinced that the trial court adequately considered defendant's youth and attendant circumstances before sentencing him to an effective life sentence, which, following *Miller*, is reserved only after the rare finding of permanent incorrigibility. Although the trial court commented on defendant's youth and upbringing ("What's mitigating about Pharoah Morris? Not much. At the time of the murder, 16 years old, that's about all that's mitigating.") and acknowledged that it read defendant's PSI ("I've read the PSI dated March 31st, I've considered the fact that Defendant did not have the best upbringing.") we do not find these observations to be the equivalent to a full consideration of those special characteristics contained within the PSI report. The trial court weighed heavily on defendant's prior conduct. We do not doubt the trial court when it said, "I've been doing this, December was 25 years. I can't recall a case as horrible as this one. Shoot one guy, weeks later shoot two guys, kill one and try and get the witnesses killed so you get a chance to go home." However, the trial court did not weigh heavily defendant's opportunity for rehabilitation: "Is there room for rehabilitation for Pharoah Morris? That's up to him. If he's rehabilitated he'll be inside, however." It went on to say, "There's some times, Pharoah, you commit a crime you pretty much forfeit your right to be ever out on the street again, this is one of them ***. Maybe you can live a useful life in prison, however, not back on the streets of the City of Chicago." It is not apparent from the record that the trial court carefully considered defendant's youthful characteristics against those aggravating factors before coming to the ultimate conclusion that defendant is "the rarest of juvenile offenders *** whose crimes reflect permanent incorrigibility," rather than a reflection of his "unfortunate yet transient immaturity." (Internal quotation marks omitted.) *Montgomery*, 577 U.S. at ___, 136 S. Ct. at 734.

¶ 33 By sentencing defendant to 100 years in prison, the trial court made the ultimate decision that defendant, at the age of 16, was permanently incapable of change. Included in this sentence were mandatory sentencing enhancements of 45 years. And the trial court believed that this sentence will "deter[] others from hopefully doing the same." However, pursuant to *Montgomery*, deterrence is diminished in juvenile sentencing because juveniles' recklessness, immaturity, and impetuosity make them less likely to consider possible punishment. *Id.* at ___, 136 S. Ct. at 726. The trial court stated, "Pharoah Morris has a malignant heart. I like that phrase, a malignant heart. It applies to Pharoah Morris, it was written for him." *Miller* did not foreclose a severe sentence for a juvenile "whose crime reflects irreparable corruption," and the Court noted that "appropriate occasions for sentencing juveniles to this harshest possible penalty will be uncommon." *Miller*, 567 U.S. at 479-80. Whether this is such an uncommon case will be determined at a resentencing hearing conducted in accordance with the ruling in this case. Accordingly, we vacate defendant's unconstitutional sentence and remand for resentencing.

¶ 34 Because the defendant will have the benefit of a new sentencing hearing we need to address whether he will be sentenced under the provisions of Public Act 99-69 (eff. Jan. 1, 2016) (adding 730 ILCS 5/5-4.5-105) and Public Act 99-258 (eff. Jan. 1, 2016) (amending 705 ILCS 405/5-130, 5-805). While defendant's case was pending on direct appeal, the legislature passed Public Act 99-69 (eff. Jan. 1, 2016). Section 5-4.5-105 of the Code now requires the sentencing judge to consider multiple youthful mitigation factors and gives the judge the discretion to decline imposition of the aggregate 45 years of mandatory firearm enhancements that were imposed as part of defendants 100-year sentence. The parties were granted leave to file supplemental briefs on the issue of the applicability of the newly enacted section 5-4.5-105 of the Code at resentencing.

¶ 35 In his supplemental brief, defendant contends that his case must be remanded for resentencing under the new sentencing provisions contained in section 5-4.5-105 of the Code. In its supplemental brief, the State argues that section 5-4.5-105 of the Code does not apply retroactively because the plain language of section 5-4.5-105 of the Code clearly indicates the legislature intended prospective application only.

¶ 36 Section 5-4.5-105 of the Code provides

“(a) On or after the effective date of this amendatory Act of the 99th General Assembly, when a person commits an offense and the person is under 18 years of age at the time of the commission of the offense, the court, at the sentencing hearing conducted under Section 5-4-1, shall consider the following additional factors in mitigation in determining the appropriate sentence:

(1) the person's age, impetuosity, and level of maturity at the time of the offense, including the ability to consider risks and consequences of behavior, and the presence of cognitive or developmental disability, or both, if any;

(2) whether the person was subjected to outside pressure, including peer pressure, familial pressure, or negative influences;

(3) the person's family, home environment, educational and social background, including any history of parental neglect, physical abuse, or other childhood trauma;

(4) the person's potential for rehabilitation or evidence of rehabilitation, or both;

(5) the circumstances of the offense;

(6) the person's degree of participation and specific role in the offense, including the level of planning by the defendant before the offense;

(7) whether the person was able to meaningfully participate in his or her defense;

(8) the person's prior juvenile or criminal history; and

(9) any other information the court finds relevant and reliable, including an expression of remorse, if appropriate. However, if the person, on advice of counsel chooses not to make a statement, the court shall not consider a lack of an expression of remorse as an aggravating factor.” 730 ILCS 5/5-4.5-105 (West Supp. 2015).

Additionally, sections 5-4.5-105(b) and 5-4.5-105(c) of the Code provide that, except in cases where the offender has been convicted of certain homicide offenses that are inapplicable here, the trial court “may, in its discretion, decline to impose any otherwise applicable sentencing

enhancement based upon firearm possession.” 730 ILCS 5/5-4.5-105(b), (c) (West Supp. 2015).

¶ 37 Subsequently, our supreme court decided *People v. Reyes*, 2016 IL 119271. In *Reyes*, the defendant was 16 years of age at the time of the offense. Our supreme court vacated defendant’s *de facto* life sentence as “unconstitutional pursuant to *Miller*.” *Id.* ¶ 10. Ordering a resentencing hearing, the *Reyes* court agreed with both the defendant and the State that the resentencing hearing would be subject to the provisions of section 5-4.5-105. *Id.* ¶ 14. The court noted that because section 4 of the Statute on Statutes (5 ILCS 70/4 (West 2014)) entitles a defendant “ ‘to be sentenced under either the law in effect at the time the offense was committed or that in effect at the time of sentencing,’ ” the proper remedy was to remand for resentencing under section 5-4.5-105(b) of the Code. *Reyes*, 2016 IL 119271, ¶ 12. The court further agreed with both the defendant and the State that “by applying this new sentencing scheme, the circuit court will have the discretion *not* to apply the firearm sentencing enhancements and, without these enhancements, the mandatory minimum aggregate sentence to which defendant would be subject is 32 years, a term that is not a *de facto* life sentence.” (Emphasis in original.) *Id.* The court remanded to the trial court with directions that a new sentencing hearing be held in accordance with section 5-4.5-105 “[b]ecause defendant would not be subject to a mandatory, life-without-parole sentence under section 5-4.5-105.” *Id.* Following *Reyes*, we remand for resentencing under section 5-4.5-105 of the Code. Accordingly, the circuit court will have the discretion to apply or decline to apply the mandatory firearm sentencing enhancements applicable in this case.

¶ 38 Because we have ordered a resentencing hearing in accordance with section 5-4.5-105 of the Code, we need not consider defendant’s argument that the 20-year and 25-year firearm enhancements violate the federal and Illinois constitutions, and the proportionate penalties clause of the Illinois Constitution as applied to defendant because they did not permit the trial court to consider his young age at the time of the offense.

¶ 39 We emphasize that we are not critical of the trial court’s observations made at sentencing after it had the benefit of hearing the evidence of the defendant’s conduct and the circumstances giving rise to his conviction. Our decision should not be taken as any indication of our position as to the appropriate sentence, and this decision should not be interpreted as a limitation on the discretion given to the sentencing judge when imposing the sentence it deems appropriate after consideration of all of the sentencing factors discussed previously.

¶ 40 Finally, defendant argues that the version of section 5-130(1)(a) of the Act which was in effect at the time he committed the offenses, which automatically transfers 15- and 16-year-olds charged with murder and attempted murder to adult court, violates the eighth amendment, the proportionate penalties clause of the Illinois Constitution, and federal and state due process rights.

¶ 41 Defendant recognizes that our supreme court upheld the constitutionality of the Illinois automatic transfer provision under the eighth amendment and due process clauses of the federal constitutional and the proportionate penalties clause of the Illinois Constitution in *People v. Patterson*, 2014 IL 115102. He argues however, that *Patterson* was incorrectly decided on the question of whether automatic transfer to adult court is punishment within the meaning of federal and state constitutional prohibitions on cruel and unusual punishment.

¶ 42 We find no reason to depart from the holding in *Patterson*. “As an intermediate appellate court, we are bound to honor our supreme court’s conclusion on this issue unless and until that

conclusion is revisited by our supreme court or overruled by the United States Supreme Court.” *People v. Fountain*, 2012 IL App (3d) 090558, ¶ 23.

¶ 43

CONCLUSION

¶ 44

We hold that defendant was given a *de facto* life sentence without meaningful consideration of his youth and attendant characteristics, as well as their effect on him. Accordingly, the cause is remanded to the circuit court for resentencing in accordance with section 5-4.5-105 of the Code (730 ILCS 5/5-4.5-105 (West Supp. 2015)).

¶ 45

Remanded for resentencing.

IN THE CIRCUIT COURT OF COOK COUNTY

PEOPLE OF THE STATE OF ILLINOIS)	CASE NUMBER	10CR1798301
V.)	DATE OF BIRTH	07/07/94
PHAROAH MORRIS)	DATE OF ARREST	09/08/10
Defendant	IR NUMBER	1763578
	SID NUMBER	057900350

ORDER OF COMMITMENT AND SENTENCE TO
ILLINOIS DEPARTMENT OF CORRECTIONS
=====

The above named defendant having been adjudged guilty of the offense(s) enumerated below is hereby sentenced to the Illinois Department of Corrections as follows:

Count	Statutory Citation	Offense	Sentence	Class
001	720-5/9-1(A)(1)	MURDER/INTENT TO KILL/INJURE	YRS. 055 MOS.00	M
	and said sentence shall run consecutive to count(s) 025 _ _ _			
025	720-5/9-1(a)(1)	(ATT) MURDER/INTENT TO KILL/INJ	YRS. 045 MOS.00	M
	and said sentence shall run consecutive to count(s) 001 _ _ _			
			YRS. _ MOS. _	
	and said sentence shall run (concurrent with)(consecutive to) the sentence imposed on:			
			YRS. _ MOS. _	
	and said sentence shall run (concurrent with)(consecutive to) the sentence imposed on:			
			YRS. _ MOS. _	
	and said sentence shall run (concurrent with)(consecutive to) the sentence imposed on:			

On Count _ defendant having been convicted of a class _ offense is sentenced as a class x offender pursuant TO 730 ILCS 5/5-5-3(C)(8).

On Count _ defendant is sentenced to an extended term pursuant to 730 ILCS 5/5-8-2.

The Court finds that the defendant is entitled to receive credit for time actually served in custody for a total credit of 1237 days as of the date of this order

IT IS FURTHER ORDERED that the above sentence(s) be concurrent with the sentence imposed in case number(s) _____

AND: consecutive to the sentence imposed under case number(s) _____

IT IS FURTHER ORDERED THAT COUNT 3 MERGES WITH COUNT1/COUNT 26 MERGES WITH COUNT 25
(3) THREE YEARS MANDATORY SUPERVISE RELEASE ON EACH COUNT
STAY OF MITTIMUS TILL 04-08-14

IT IS FURTHER ORDERED that the Clerk provide the Sheriff of Cook County with a copy of this Order and that the Sheriff take the defendant into custody and deliver him/her to the Illinois Department of Corrections and that the Department take him/her into custody and confine him/her in a manner provided by law until the above sentence is fulfilled.

ENTERED
JUDGE STANLEY J. SACKS-1531

DATED MARCH 31, 2014

MAR 31 2014

ENTER: 03/31/14

CERTIFIED BY O DILLARD
DEPUTY CLERK

DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

JUDGE: SACKS STANLEY J.

1531

GCPS 03/31/14 12:44:37

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1 STATE OF ILLINOIS)
 2 COUNTY OF C O O K) SS.

3 IN THE CIRCUIT COURT OF COOK COUNTY
 4 COUNTY DEPARTMENT - CRIMINAL DIVISION

5 THE PEOPLE OF THE
 6 STATE OF ILLINOIS)

7 VS)

Indictment No. 10 17983

8 Charge: Murder)

9 PHAROAH MORRIS)

10 REPORT OF PROCEEDINGS

11 BE IT REMEMBERED that on the 31st day of March
 12 A.D., 2014, this cause came on for hearing before the
 13 Honorable STANLEY J. SACKS, Judge of said court.

14 APPEARANCES:

15 HON. ANITA M. ALVAREZ,
 16 State's Attorney of Cook County, by:
 17 MR. JEFFREY ALLEN and MS. LISA LONGO,
 Assistant State's Attorneys,
 appeared on behalf of the People;

18 HON. ABISHI C. CUNNINGHAM, JR. (Ret.)
 19 Public Defender of Cook County, by:
 20 MESSRS. EDWARD KOZIBOSKI and PETER BENESH,
 Assistant Public Defenders,
 appeared on behalf of the Defendant.

21
 22 Brenda D. Hayes, CSR, 084-001226
 23 Official Court Reporter
 24 2650 S. California Ave.
 Chicago, Illinois 60608

BBB-1

1 who he will be in 10 years or 15 years or 30 years.

2 Is 67 years enough? He'll be 83 at that
3 point. Will we need to be protected from Pharoah Morris
4 as an 83-year-old man? Your Honor, there is no question
5 that this is tragic. There's no question it's an ongoing
6 tragedy in our community but the minimum time that you
7 can give Mr. Morris is close to if not a life sentence,
8 it will protect us, so we believe that that is the
9 appropriate sentence.

10 THE COURT: Mr. Morris, you're not required to
11 say anything. If you want to say anything now is the
12 time to say it. Do you want to say anything, Mr. Morris?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: Stand up, please, so I can see you.
15 What did you want to say, Mr. Morris?

16 THE DEFENDANT: I wanted to say that I'm not
17 the one that shot DeAntonio Goss. The man who shot
18 DeAntonio Goss was Lacy Sheppard.

19 THE COURT: Lacy Sheppard. Okay.

20 THE DEFENDANT: That's all I want to say.

21 THE COURT: All right. Something that the
22 young man's father said, Mr. Jackson, I said it myself so
23 many times over the years, unfortunately I've said it so
24 many times. Pharoah Morris I'm sure has people, has

BBB-38

1 family, they can come visit him where he's at, depending
2 on where he's at, maybe they can reach across the table
3 and touch him, give him a hug when visiting is over with,
4 get letters from him, see him visiting days, whatever,
5 that's not the same luxury the family of
6 DeAntonio Goss has, however. The only place they can see
7 DeAntonio Goss is maybe a photograph, a video, a picture
8 on the tombstone. There's no conversation with
9 DeAntonio Goss anymore, no more touching
10 DeAntonio Goss anymore.

11 And while Pharoah Morris will get older as
12 years go on Antonio Goss will always be 16. There's no
13 getting older for DeAntonio Goss. And why? It's not
14 even clear why this happened but nonetheless the evidence
15 shows it did happen. Pharoah Morris decided to shoot
16 DeAntonio Goss and he also shot Corey Thompson as well.
17 But for the grace of God you might have two murders here,
18 Corey Thompson and DeAntonio Goss but Thompson survived
19 through no fault of Pharoah Morris. He tried his best to
20 kill the boy but he wasn't as good a shot as he thought
21 he would be, hoped he would be perhaps.

22 The defense says, well, he was 16 at the
23 time, a small, small kid, Pharoah Morris I'm talking
24 about. When you're out there with that gun in your hand

BBB-39

1 you look a lot bigger than maybe 16 but when you're 16
2 you make choices and in this case every choice
3 Pharoah Morris made was a bad choice, every one of them.
4 He shot the other guy a few weeks before for whatever
5 reason, shot and killed DeAntonio Goss, shot
6 Corey Thompson for whatever reason and then what he did
7 thereafter there was a reason for that at least, not a
8 good one but a reason. If you want to make your chances
9 better of going home, getting back out to the street
10 again and how would he do that? Make sure those
11 witnesses are taken care of. Taken care of as he put
12 it, they won't be in court to testify maybe I'll go home
13 then, that also was his choice. That's how I'll get out,
14 I'll talk to this dude in the jail and he'll knock them
15 off for me, he'll have them taken care of as he put it,
16 Pharoah Morris put it, but fortunately that person as it
17 turns out was a jail snitch and he went to the
18 authorities and told them this is a letter I got from
19 Pharoah, the witnesses' names are on there, addresses are
20 on there, dates of birth are on there, these are the ones
21 Pharoah Morris wanted to have knocked off or taken care
22 of.

23 The State makes an argument, well, it
24 should be a life sentence. He's eligible for that and

BBB-40

1 basically whatever he gets is practically a life sentence
2 anyway. The minimum sentence on the murder charge he was
3 found guilty of is 45 years, that's actual 45 calendar
4 years inside and then you have the attempt murder of the
5 other guy, Corey Thompson, which has to be consecutive
6 and that's 85 percent. Murder is a hundred percent,
7 attempt murder is 85 percent. Either way the chance of
8 Morris getting out of prison ever are slim to none
9 anyway. Even if he got the minimum what are you talking
10 about, 70 years or somewhere around there, 66 years,
11 whatever.

12 Mr. Morris, you could live a good life
13 inside if you choose to do so. You can do easy time or
14 hard time, but that's a choice you'll eventually make.
15 You can make the right choice in that respect, everything
16 else you did was the wrong choice, killing
17 DeAntonio Goss, shooting Corey Thompson, trying to get
18 the witnesses killed, those are all bad choices. Now the
19 choices are how do you want to live inside. You can be
20 constructive inside, as well as outside, that's up to
21 you.

22 I've been doing this, December was 25
23 years. I can't recall a case as horrible as this one.
24 Shoot one guy, weeks later shoot two guys, kill one and

BBB-41

1 try and get the witnesses killed so you get a chance to
2 go home, all it did was make it worse actually, but you
3 have your choices. My mother use to always say, I still
4 remember it now, you make your bed, you got to sleep in
5 it. You made your choices, Pharoah, now you got to deal
6 with them. You can't be running around the streets of
7 the City of Chicago with a gun shooting one guy, killing
8 another guy, shooting another guy, trying to get the
9 witnesses murdered, you just can't do it.

10 It's very unfortunate that this job is so
11 frustrating because no matter what happens today with
12 Pharoah Morris, whatever I do with Pharoah Morris today
13 DeAntonio Goss is not coming back, he's gone
14 unfortunately. Pharoah Morris chose to murder
15 DeAntonio Goss. Why? Only Pharoah Morris knows why. He
16 shot Corey Thompson. Why? Only Pharoah Morris knows
17 why. Kill the witnesses, I think we all know why in that
18 respect, to give him a chance to go home, would seal his
19 chance as far as getting home.

20 I say this all the time, no one believes
21 me anyway but it's actually really true, I don't put
22 people in the penitentiary. People look up and kind of
23 scoff at that comment. It's actually true, however. I
24 sign the paper saying that's where the guy is going

BBB-42

1 ultimately. It's what the guy does on the street that
2 gets him there, I just make it official that's all. When
3 you go out on the street, you decide you want to kill
4 some young guy 16, the same age as you are or shoot some
5 other guy that's what will get you there.

6 I take no pleasure, Mr. Morris, it's not a
7 fun job at times, a young guy, 16 years old at the time,
8 18 now maybe but it goes with the job. Mr. Morris,
9 nothing personal. Every day you get today was
10 well-earned by you, Pharoah. It's sort of like a nice
11 round number.

12 I've read the PSI dated March 31st, I've
13 considered the fact that Morris did not have the best
14 upbringing, it doesn't justify murder, however. I'll
15 considered it for what it was worth. For the picture,
16 intake photo of Pharoah Morris, I won't consider it at
17 all because who knows why he's smiling. I can't imagine
18 why he's smiling going to jail for murder. Maybe he had
19 a reason to smile for some other reason, who knows. I
20 won't talk about why he was smiling, I won't consider it
21 at all.

22 The other factors in aggravation and
23 mitigation, I've considered all of them. What's
24 mitigating about Pharoah Morris? Not much. At the time

BBB-43

1 of the murder, 16 years old, that's about all that's
2 mitigating. This is a young man who knows what he wants
3 to do. Maybe he felt like a big man with that gun in his
4 hand. I can't recall what he said to the girl the next
5 day. What was it, Mr. Allen, he told that girl at school
6 the next day? What's up, Dortha?

7 MR. ALLEN: I believe that's the exact quote.

8 THE COURT: One of the witnesses to the murder,
9 he sees her at school the next day. What's up, Dortha?
10 One can argue that's sort of a veiled threat, wouldn't
11 you think so, what's up, Dortha? A witness seeing
12 someone murder someone, what's up, Dortha? He wanted to
13 increase his chance every single day of getting out of
14 here. You can even argue that is a threat, certainly a
15 veiled threat nonetheless, what's up, Dortha? And again
16 I forgot exactly what he said at the time of the
17 shooting, something along the lines of this is all what
18 you want, this is all you're going to get. This is what
19 you all want, this is what you're all are going to get
20 and then starts shooting. I'm sure they didn't want that
21 but that's what they got. That was Pharoah's way of
22 passing the time of day. This is what you all want, this
23 is what you all are going to get, kill one guy try and
24 kill another guy.

BBB-44

1 I think people sometimes don't realize,
2 like Pharoah Morris for example, let's take
3 Pharoah Morris, not for example, Pharoah Morris, he
4 doesn't realize who is affected by what somebody does
5 like Pharoah Morris. Is it just Pharoah Morris and
6 DeAntonio Goss? Obviously not. Pharoah Morris has
7 family I'm sure, they care about him. He's a young guy,
8 18 years old. DeAntonio Goss has family obviously also,
9 they cared about the boy, so it's not just DeAntonio Goss
10 on one hand and Pharoah Morris on the other that are
11 affected by this case. A lot of people are affected by
12 it, the family of both DeAntonio Goss and Pharoah Morris.
13 Sixteen years old, each one of them. One guy is dead
14 unfortunately, DeAntonio Goss, and Pharoah Morris most
15 likely his entire life from now on locked up in prison
16 somewhere. So what's accomplished basically by this?
17 I'm not sure. It certainly punishes Morris for what he
18 did. It only deters others from hopefully doing the same
19 thing.

20 Is there room for rehabilitation for
21 Pharoah Morris? That's up to him. If he's rehabilitated
22 he'll be inside, however. Pharoah Morris has shown by
23 his conduct two weeks before the incident, the murder of
24 DeAntonio Goss, on the day of the incident of the murder

BBB-45

1 of DeAntonio Goss, which was September 8, 2010, and even
2 thereafter in the jail, I want these people taken care
3 of, shows -- I like to read the cases, I find little
4 words in each one of them. I think I found ones that
5 apply to Pharoah Morris, it just came to my mind just now
6 after all these years. Pharoah Morris has a malignant
7 heart. I like that phrase, a malignant heart. It
8 applies to Pharoah Morris, it was written for him. A
9 young guy out on the streets of the City of Chicago with
10 a gun, shooting it up, hitting one guy two weeks before,
11 two guys on the date of the murder, including the murder
12 victim obviously and then I want these people taken care
13 of. Everybody in the world knows what that means, taken
14 care of.

15 There's some times, Pharoah, you commit a
16 crime you pretty much forfeit your right to be ever out
17 on the street again, this is one of them. Everything I
18 give you in a few seconds, Mr. Morris, you earned every
19 single day, every single minute, every single second.
20 Maybe you can live a useful life in prison, however, not
21 back on the streets of the City of Chicago.

22 The sentence for the murder of
23 DeAntonio Goss will be 55 years in the Department of
24 Corrections. For the attempted murder of Corey Thompson

BBB-46

1 the sentence will be 45 years, Department of Corrections,
2 that's consecutive to 55, so it's a hundred years
3 altogether. And the other charge, aggravated firearm,
4 merges with the attempted murder of Corey Thompson.

5 Mr. Morris, it wasn't a fun day for me,
6 but it goes with the job, you've earned it. You have a
7 right to appeal the jury's verdict of guilty of the
8 murder of DeAntonio Goss, attempt murder of Corey
9 Thompson, within 30 days of today's date. If you cannot
10 afford a lawyer, a copy of the trial transcript of
11 today's hearing or any other, a lawyer and a transcript
12 will be provided free. Do you understand me so far,
13 Mr. Morris?

14 THE DEFENDANT: Yes.

15 THE COURT: If you think your sentence is
16 excessive, unduly severe or for any other reason you have
17 to file a motion within 30 days asking me to reconsider
18 your sentence or you cannot raise the issue on appeal.
19 Do you understand that also?

20 THE DEFENDANT: Yes.

21 THE COURT: Also when you go down to the
22 penitentiary, Mr. Morris, you've got to give a sample for
23 DNA analysis while in the custody of the Department Of
24 Corrections. I'll waive any fees. Also there's certain

BBB-47

1 fees and costs you are required by law to pay that will
2 be satisfied by time spent in custody and I think that's
3 about it. Anything else, State, you can think of?

4 MR. ALLEN: Fines, fees --

5 THE COURT: Will be satisfied by time spent in
6 custody. Also each charge carries a sentence -- a three
7 year period of mandatory supervised release as well.
8 Anything else, Mr. Allen?

9 MR. ALLEN: Judge, there is the other case, I
10 would just ask that it be held over until April the 8th
11 and I will confer with Mr. Wise as to the status of that
12 case.

13 THE COURT: That's 12 CR 18932? Okay. What
14 date did you say again?

15 MR. ALLEN: I'm going to be here on April 8th
16 for another matter so if that's okay with Mr. Koziboski.

17 MR. KOZIBOSKI: That's fine.

18 THE COURT: Order of court April 8th as far the
19 solicitation to commit murder case, 12 CR 18932, order of
20 court 4-8. On the other case he was just sentenced to an
21 even hundred years, that's order of court 4-8. Stay of
22 mittimus to the same day.

23 MR. KOZIBOSKI: Thank you, your Honor. We ask
24 leave at this point to file our Motion To Reconsider

BBB-48

1 Sentence and we'll make no argument.

2 THE COURT: All right. The defendant was
3 looking at a possible life sentence alone on the murder
4 charge, consecutive on the other one. The sentence of a
5 hundred years is substantial, it's not excessive,
6 however. Take Mr. Morris back.

7 MR. KOZIBOSKI: And, Judge, at this point we
8 would be filing our Notice Of Appeal on this matter.

9 THE COURT: All right.

10 MR. KOZIBOSKI: I'm asking you to sign an order
11 appointing the appellate defender to represent
12 Mr. Morris.

13 THE COURT: State, I'll give you back the
14 smiling photograph of Pharoah Morris, I didn't consider
15 it so I don't need it. You can take it back. We'll see
16 you back here April 8th.

17
18 (The above-entitled matter
19 was continued to
20 April 8, 2014.)
21
22
23
24

BBB-49

TABLE OF CONTENTS OF RECORD ON APPEAL

People v. Morris, No. 2010 CR 1798391 (Cook County)

Common Law Record

<u>Document</u>	<u>Pages</u>
Certification of Record	C1
Table of Contents	C2-5
Case Summary	C6-48
Information/Indictment Return Sheet (Oct. 15, 2010)	C49-50
Indictment (Oct. 15, 2010)	C51-77
Docket Sheet	C78-96
Order Setting Court Date (Nov. 18, 2013)	C97
Disposition Sheet (Feb. 24, 2014)	C98-100
Orders for Civilian Clothing (Feb. 24 & 25, 2014)	C101-02
Order Concerning Firearms Evidence (Feb. 25, 2014)	C103
Disposition Sheets (Feb. 25 & 26, 2014)	C104-09
Order for Civilian Clothing (Feb. 26, 2014)	C110
Impounded	C111-12
Disposition Sheet (Feb. 28, 2014)	C113-15
Motion to Reconsider Sentence (Mar. 31, 2014)	C116-17
Notice of Appeal (Mar. 31, 2014)	C118
Order of Commitment and Sentence (Mar. 31, 2014)	C119
Impounded (Victim Impact Statements)	C120

Disposition Sheet (Apr. 8, 2014).....	C121-23
Notice of Notice of Appeal (Apr. 11, 2014)	C124
Disposition Sheet (Apr. 11, 2014).....	C125-27
Order Appointing Appellate Defender (Apr. 11, 2014)	C128
Impounded	C129
Impounding Order (Sept. 10, 2014)	C130-31
Appellate Court Mandate (July 5, 2017)	C132
Appellate Court Decision (Mar. 28, 2017)	C133-50
Disposition Sheets (July 20 & 25, 2017).....	C151-56
Order Setting Date (July 25, 2017).....	C157
Disposition Sheets (Aug. 8 & Sept. 5, 2017)	C158-63
Order Setting Date (Sept. 5, 2017).....	C164
Disposition Sheet & Continuance Order (Sept. 12, 2017).....	C165-68
Disposition Sheet & Continuance Order (Sept. 21, 2017).....	C169-72
Appearance of Defense Attorney David Gaeger (Oct. 13, 2017)	C173
Disposition Sheet & Continuance Order (Oct. 13, 2017)	C174-77
Disposition Sheet & Continuance Order (Nov. 21, 2017).....	C178-80
Disposition Sheet & Continuance Order (Jan. 11, 2018)	C181-84
Disposition Sheet & Continuance Order (Feb. 28, 2018)	C185-88
Disposition Sheet & Continuance Order (Apr. 5, 2018).....	C189-92
Disposition Sheet & Continuance Order (May 17, 2018).....	C193-96
Disposition Sheet & Continuance Order (June 21, 2018).....	C197-200

Disposition Sheet & Continuance Order (June 28, 2018)	C201-04
Disposition Sheet & Continuance Order (July 16, 2018)	C205-08
Disposition Sheet & Continuance Order (July 31, 2018)	C209-12
Disposition Sheet & Continuance Order (Aug. 14, 2018)	C213-16
Disposition Sheet & Continuance Order (Aug. 22, 2018)	C217-20
Disposition Sheet & Continuance Order (Aug. 30, 2018)	C221-24
Disposition Sheet & Continuance Order (Sept. 7, 2018).....	C225-28
Disposition Sheet & Continuance Order (Oct. 22, 2018)	C229-32
Notice of Investigation Order (Oct. 22, 2018)	C233
Disposition Sheet & Continuance Order (Dec. 5, 2018)	C234-37
Impounded (PSI).....	C238
Disposition Sheet & Continuance Order (Feb. 6, 2019)	C239-42
Disposition Sheet & Continuance Order (Mar. 14, 2019)	C243-46
Disposition Sheet & Continuance Order (Apr. 4, 2019)	C247-50
Disposition Sheet & Continuance Order (Apr. 23, 2019)	C251-54
Disposition Sheets (May 28 & June 11, 2019).....	C255-60
Order of Habeas Corpus (entered June 11, 2019)	C261
Disposition Sheets (July 18, Aug. 15, Aug. 21, Sept. 17 & Oct. 17, 2019).....	C262-71
Order of Habeas Corpus (Oct. 17, 2019)	C272
Disposition Sheet & Continuance Order (Nov. 21, 2019).....	C273-76
Disposition Sheets (Nov. 21 & Dec. 6, 2019).....	C277-82
Continuance Order (Dec. 6, 2019).....	C283

Disposition Sheet & Continuance Order (Jan. 9, 2020)	C284-87
Disposition Sheet & Continuance Order (Feb. 10, 2020)	C288-91
Defendant's Sentencing Memorandum (Mar. 11, 2020).....	C292-96
Disposition Sheet & Continuance Order (Mar. 12, 2020)	C297-300
Disposition Sheets (Sept. 3 & Nov. 24, 2020)	C301-06
Order Setting Date (Nov. 25, 2020)	C307
Disposition Sheets (Jan. 11, Mar. 10, Apr. 15 & June 14, 2021)	C308-17
Order of Habeas Corpus (June 14, 2021).....	C318
Disposition Sheets (Aug. 19, Sept. 29, Nov. 10 & Nov. 22, 2021)	C319-30
Memorandum on Applicable Law (Dec. 15, 2021)	C331-34
Motion to Reconsider Sentence (Dec. 15, 2021).....	C335-36
Notice of Appeal (Dec. 15, 2021).....	C337
Order for Payment of Attorney Fees (Dec. 15, 2021)	C338
Verified Petition for Fees (Dec. 15, 2021)	C339-47
Order Quashing Warrants (Dec. 15, 2021)	C348
Disposition Sheet (Dec. 15, 2021).....	C349-51
Order of Commitment and Sentence (Dec. 15, 2021)	C352-53
Impounded (Victim Impact Statements)	C354
Order Appointing Appellate Defender (Jan. 7, 2022)	C355
Disposition Sheet (Jan. 7, 2022).....	C356-58
Notice of Notice of Appeal (Jan. 10, 2022)	C359-60

Impounded Common Law Record

<u>Document</u>	<u>Pages</u>
Certification of Impounded Record	CI1
Table of Contents	CI2-3
Jury Verdicts (Feb. 28, 2014)	CI4-6
Jury Instructions and Verdict Forms (Feb. 28, 2014)	CI7-30
Victim Impact Statements	CI31-34
Cover Page	CI35
Certification Page	CI36
Docket Sheet	CI37-44
Disposition Sheets (Feb. 24 & 25, 2014)	CI45-52
Docket Sheet	CI53-55
Disposition Sheet (Apr. 11, 2014).....	CI56-58
Docket Sheet	CI59
Chicago Police Department Arrest Report	CI60-67
Complaint for Preliminary Examination (Sept. 10, 2010)	CI68-71
Order Finding Probable Cause (Sept. 10, 2010)	CI72-73
Appearance and Notice of Representation (Sept. 13, 2010).....	CI74
Prisoner Data Sheet (Sept. 13, 2010).....	CI75
Order of Special Conditions of Bond or Release (Sept. 13, 2010)	CI76
Continuance Order (Sept. 30, 2010).....	CI77
Appearance and Notice of Representation (Oct. 7, 2010)	CI78

Prisoner Data Sheet (Oct. 7, 2010)	CI79
Information/Indictment Return Sheet (Oct. 18, 2010)	CI80-81
Bill of Indictment (Sept. 8, 2010)	CI82-109
Attorney Appearance for Defendant (Oct. 27, 2010)	CI110
People's Motion for Pretrial Discovery (Oct. 27, 2010)	CI111-12
People's Answer to Discovery (Oct. 27, 2010)	CI113
Defendant's Motion for Discovery (Oct. 27, 2010)	CI114-19
Continuance Orders (Oct. 27 & Nov. 29, 2010)	CI120-21
Continuance Orders (Jan. 5, Feb. 3, Feb. 22, & Mar. 24, 2011)	CI122-25
Order on Subpoena (Apr. 12, 2011)	CI126
Continuance Orders (Apr. 12, May 16, May 24 & June 27, 2011)	CI127-30
Order Concerning Defense Counsel (July 25, 2011)	CI131
Continuance Orders (July 25, Aug. 25, Sept. 27, Nov. 1 & Dec. 5, 2011)	CI132-36
Continuance Orders (Jan. 12, Feb. 16, Mar. 12 & Mar. 28, 2012)	CI137-40
Continuance Orders (May 23, June 20, July 12 & Aug. 10, 2012)	CI141-44
People's Motion to Admit Proof of Other Crimes (Aug. 21, 2012)	CI145-52
Continuance Orders (Aug. 21, Sept. 21, Oct. 11 & Oct. 31, 2012)	CI153-56
Continuance Orders (Jan. 22, Feb. 27 & Mar. 14, 2013)	CI157-59
Supplemental Motion to Admit Proof of Other Crimes (Mar. 15, 2013)	CI160-71
Continuance Order (Mar. 15, 2013)	CI160
Defendant's Motion for Frye Hearing (Apr. 23, 2013)	CI161-85
Response to Motion to Admit Proof of Other Crimes (Apr. 23, 2013)	CI186-89

Continuance Order (Apr. 23, 2013).....	CI190
Case Citations (Firearms) (May 1, 2013).....	CI191-220
Continuance Orders (May 1, June 4 & June 10, 2013)	CI221-24
Continuance Orders (July 8, July 22, Aug. 8 & Sept. 4, 2013)	CI225-28
Continuance Orders (Oct. 15, Oct. 28 & Nov. 18, 2013).....	CI229-31
Order to Produce Marvin Floyd (Feb. 21, 2014)	CI232
Orders Concerning Civilian Clothes (Feb. 24 & 25, 2014)	CI233-34
Order Concerning Firearm Evidence (Feb. 25, 2014)	CI235
People’s Answer to Discovery (Feb. 25, 2014).....	CI236-41
Notice of Intent to Seek Enhanced Sentence (Feb. 26, 2014)	CI242
Order to Return Marvin Floyd (Feb. 26, 2014).....	CI243
Order Concerning Civilian Clothes (Feb. 27, 2014)	CI244
People’s Motion in Limine Concerning Voir Dire.....	CI245-47
Proposed Jury Instructions and Verdict Forms	CI248-74
Jury Verdicts (Feb. 28, 2014)	CI275-77
Notice of Investigation Order (Mar. 4, 2014).....	CI278
Order Taking Off Call (Mar. 31, 2014)	CI279
Presentence Investigation Report (Mar. 31, 2014).....	CI280-84
Clerk’s Certificate (May 9, 2014)	CI285
Cover Page and Certificate (Mar. 31, 2014)	CI286-87
Presentence Investigation Report (continued) (Mar. 31, 2014)	CI288-90
Chicago Police Department Criminal History Report.....	CI291-97

Illinois State Police Criminal History.....	CI298-304
Victim Impact Statements	CI305-12
Motion for Acquittal or for New Trial (Mar. 31, 2014).....	CI313-16
Order of Commitment and Sentence (Mar. 31, 2014)	CI317
Motion to Reconsider Sentence (Mar. 31, 2014)	CI318-19
Notice of Appeal (Mar. 31, 2014).....	CI320
Notice of Notice of Appeal	CI321-22
Order Appointing Appellate Defender (Apr. 11, 2014)	CI323
Certificate.....	CI324
Presentence Investigation Report (Feb. 6, 2019)	CI325-31
Victim Impact Statements	CI332-34
Letters in Support of Defendant at Sentencing.....	CI335-40

Report of Proceedings: Hearings

Arraignment (Oct. 27, 2010).....	R5-R12
Motion to Admit Proof of Other Crimes and Motion for Frye Hearing (May 1, 2013).....	R149-87
Jury Trial (Feb. 26, 2014).....	R241-429
Jury Trial (Feb. 27, 2014).....	R433-535
Jury Trial (Feb. 28, 2014).....	R537-608
Post-Trial Hearing and Sentencing (Mar. 31, 2014)	R610-57
Jury Selection (Feb. 25, 2014).....	R664-906
Resentencing (Nov. 22, 2021)	R1117-63

Report of Proceedings: Witnesses

	<u>DX</u>	<u>CX</u>	<u>RDX</u>	<u>RCX</u>
People's Case-in-Chief				
Darryl Jackson	R259			
Corey Thompson	R263	R295	R304	
Marvin Floyd	R318	R328		
Dortha Sims	R331	R350	R355	
Dashanea Johnson	R356	R372		
Ricky Whitehead	R375	R386 R405		
Zbigniew Niewdach	R408	R425	R427	
Hilary McElligot	R436	R451	R451	
Peter Brennan	R458	R492		
Eric Bucio	R506			
Sentencing				
Yolanda Roundtree	R630			
Darryl Jackson	R634			

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 April 10, 2026, the foregoing **Brief and Appendix 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 automatically served notice on counsel.

/s/ Erin M. O'Connell
ERIN M. O'CONNELL
Assistant Attorney General