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This Order was filed under  
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under Rule 23(e)(1).

2026 IL App (4th) 251244-U

NO. 4-25-1244

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

**FILED**

September 9, 2026  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

|                                      |   |                      |
|--------------------------------------|---|----------------------|
| THE PEOPLE OF THE STATE OF ILLINOIS, | ) | Appeal from the      |
| Plaintiff-Appellee,                  | ) | Circuit Court of     |
| v.                                   | ) | Peoria County        |
| TOOLA O. TAYLOR,                     | ) | No. 07CF767          |
| Defendant-Appellant.                 | ) |                      |
|                                      | ) | Honorable            |
|                                      | ) | Katherine S. Gorman, |
|                                      | ) | Judge Presiding.     |

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JUSTICE HARRIS delivered the judgment of the court.  
Presiding Justice Steigmann and Justice Knecht concurred in the judgment.

**ORDER**

¶ 1 *Held:* Defendant failed to establish the trial court abused its discretion in resentencing him to 24 years in prison for aggravated criminal sexual assault.

¶ 2 Following a jury trial in 2008, defendant, Toola O. Taylor, was convicted of aggravated criminal sexual assault (720 ILCS 5/12-14(a)(1) (West 2006)). The trial court imposed a 32-year prison sentence that included a mandatory 10-year statutory enhancement. See *id.* § 12-14(d)(1). The Third District affirmed defendant's conviction on direct appeal. *People v. Taylor*, 397 Ill. App. 3d 813, 819 (2010).

¶ 3 In 2023, defendant filed a petition for relief from judgment pursuant to section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2022)), in which he argued, in pertinent part, the mandatory 10-year statutory enhancement that had been applied to his sentence was unconstitutional. The trial court dismissed defendant's petition, and he appealed.

On appeal, this court agreed with defendant and held that the 10-year statutory enhancement was unconstitutional. We vacated defendant’s 32-year sentence and remanded for resentencing without the enhancement. *People v. Taylor*, 2024 IL App (4th) 231066, ¶¶ 38, 40.

¶ 4 On remand, the trial court resentenced defendant to 24 years in prison. Defendant appeals, arguing the court abused its discretion and imposed an excessive sentence where it “failed to strike a proper balance between [his] substantial efforts at rehabilitation and the need for retribution.” We affirm.

¶ 5 I. BACKGROUND

¶ 6 A. The Charges

¶ 7 In 2007, the State charged defendant by way of a three-count indictment with certain sex offenses he allegedly committed against the same victim in July 2006. In count II—the only count on which defendant was sentenced and the only count pertinent to the instant appeal—the State charged him with aggravated criminal sexual assault (720 ILCS 5/12-14(a)(1) (West 2006)). The State alleged that in committing the offense, defendant “displayed or threatened to use a dangerous weapon or an object fashioned or utilized in such a manner as to lead the victim \*\*\* to reasonably believe it to be a dangerous weapon.”

¶ 8 B. The Jury Trial

¶ 9 Defendant’s jury trial was held in April 2008. The following relevant evidence concerning the nature and circumstances of count II was presented at defendant’s trial:

“At the trial, the victim, C.H., testified that in the early morning hours of [July 18, 2006], she was sitting on the front porch of her sister’s residence. She said that the defendant approached her from her right side, told her to ‘shut up’ and put a gun to her head. He then put his hand over her mouth and led her across

the street to a field behind her sister's house. C.H. stated that the defendant took her behind a garage, where he raped her. After the defendant finished the assault, he told C.H. to walk away slowly and not to look back or he would shoot her. When C.H. looked back at him, he shot the gun once into the air. On cross-examination, C.H. acknowledged that she did not know if a bullet came out of the gun when the defendant fired it. She also admitted that she did not know whether the gun was a starter pistol or a 'blank gun.' At the trial, police officers testified that they did not find a bullet casing at the crime scene.

\*\*\*

C.H. was transported to a hospital, where she was examined by medical personnel. The State submitted evidence showing that a swab from C.H.'s vagina produced deoxyribonucleic acid (DNA) that matched the defendant's DNA.

\*\*\*

The defendant testified that he did not rape C.H. but, rather, that they had consensual sex.” *Taylor*, 397 Ill. App. 3d at 815.

The jury found defendant guilty of aggravated criminal sexual assault as charged in count II beyond a reasonable doubt. Pursuant to a special verdict form, the jury found he had not committed aggravated criminal sexual assault while armed with a firearm.

¶ 10 C. Sentencing and Direct Appeal

¶ 11 In June 2008, the trial court entered a judgment of conviction as to count II only and sentenced defendant on that count to 32 years in prison, which included a mandatory 10-year statutory enhancement. See 720 ILCS 5/12-14(d)(1) (West 2006) (“A violation of subsection (a)(1) is a Class X felony for which 10 years shall be added to the term of imprisonment imposed

by the court.”). In imposing its sentence, the court noted that it was “mindful” of the 10-year statutory enhancement and was “merely following the directive of the legislature” in applying it to defendant’s sentence. Defendant appealed his conviction for aggravated criminal sexual assault, and the Third District affirmed on direct appeal. See *Taylor*, 397 Ill. App. 3d at 819.

¶ 12 D. Collateral Proceedings

¶ 13 In 2023, defendant filed a section 2-1401 petition for relief from judgment. In relevant part, “he argued section 12-14(d)(1) violated his due process rights because it exposed him to harsher penalties for conduct that was less serious than the offense of armed violence when predicated on criminal sexual assault with a firearm.” *Taylor*, 2024 IL App (4th) 231066,

¶ 14. The State filed a motion to dismiss defendant’s petition, which the trial court granted. Defendant appealed.

¶ 14 On appeal, we held the mandatory 10-year statutory enhancement at issue “was unconstitutional and void” because it “punished a nonfirearm version of aggravated criminal sexual assault more harshly than a firearm version of that offense.” *Id.* ¶ 38. We thus vacated defendant’s 32-year sentence as void *ab initio* and remanded with directions “for resentencing without the 10-year sentencing enhancement applicable to section 12-14(a)(1).” *Id.* ¶ 40.

¶ 15 E. Proceedings on Remand

¶ 16 In May 2025, the trial court conducted a resentencing hearing. The State prepared both an updated and supplemental presentence investigation report (PSI). Neither the State nor defendant presented any additional evidence in aggravation or mitigation at the hearing.

¶ 17 According to the updated PSI, defendant’s criminal history consisted of five felony convictions: he was convicted of unlawful possession of a stolen vehicle, burglary, and residential burglary in 1993, and, in 1995, he was convicted of burglary and unlawful possession

of a stolen vehicle. Defendant's educational history showed he had obtained a GED in 1992 and an associate's degree in 1999. He had three children and had been working part-time prior to his arrest in this case. The updated PSI showed defendant had been involved in "two significant incidents" since beginning his sentence in this case—namely, "a fight in 2010 in which he received 30 days in segregation and \*\*\* an inmate assault in 2021 in which he received 49 days in segregation."

¶ 18 The updated PSI further showed that in 2016, "defendant was awarded certificates in Practical Building Trades and Fundamental Construction Skills from Lake Land College." Defendant reported being enrolled "in the Hustle 2.0 program" at Southern Utah University and "taking courses in Political Economy and Social Philosophy provided by the Henry George Academy Incarcerated Student Program." He indicated that he spent his free time in prison "as a published author and advocate." He further reported that he had published numerous books, a "stage play," and a magazine, and he had "post[ed] journal entries through Cornell University and essays through the Illinois Department of Correction's e-magazine." Several letters in support of defendant were attached to the PSIs, including letters from his mother, his fiancée, the "CEO of Cadmus Publishing LLC," two fellow inmates, and a correctional officer.

¶ 19 During the argument portion of the resentencing hearing, the State asked the trial court to impose the maximum sentence of 30 years in prison. The State first highlighted the nature and circumstances of the offense, noting that defendant had "raped [the victim] after indicating that he was going to rob her and kill her." The State also pointed to defendant's significant criminal history. Lastly, the State acknowledged that defendant "has made some strides in [prison]," but it went on to state, "[T]hat doesn't change the fact of what happened to the victim and what happened to the victim was horrible. It was horrendous."

¶ 20 Defendant, *pro se*, began his sentencing argument by stating, “I don’t intend to sit here and act like this isn’t a serious situation, but I feel like the resentence should be somewhere in the range of 10 to 20 years.” After discussing our holding vacating his original sentence, defendant concluded his argument as follows:

“I would like to ask that this Court resentence me to 20 years based upon the fact that I have spent the past 18 years trying to rebuild and change my mind and spirit, that I deserve an opportunity to redeem myself, and that I can be productive upon my release, just as I have been while incarcerated, and that I have a great support system to help me to continue to do that.”

¶ 21 When prompted by the trial court, defendant stated the following in allocution:

“Like I said, I don’t want to downplay any of the accusations or anything. I’ve had 18 years to go over what had happened. It was all around an unfortunate situation. I’m not going to try to denigrate the person who made the accusations. I’m just at the point now in my life where I just want to get on and try to live whatever’s left of it and be as productive as I can.”

¶ 22 Ultimately, the trial court resented defendant to 24 years in prison. The court provided the following reasoning for its sentence:

“The Court has considered the entirety of the file, along with transcripts of the sentence in front of [the original sentencing court], the Appellate Court decision, all of the statutory factors in aggravation and mitigation, the history and character of [defendant], and having due regard for the circumstances and nature of the offense finds as follows: And as [defendant] pointed out, the crime itself was very serious and caused great harm to the [victim]. [Defendant] has a rather

lengthy criminal history. This sort of conduct most certainly should be deterred. The victim, at a minimum, suffered serious emotional harm and it was a horrendous crime that was committed.

In mitigation, certainly, since [defendant] has been in prison, you—I’m commending all of your efforts \*\*\*. You’ve done a great deal[,] and the Court is mindful of that. The Court is also mindful of [the original sentencing court] and [it] heard the case and sentenced [defendant] initially. And the Appellate Court, then, has indicated that the ten-year enhancement should not be considered. So, bearing that in mind, the Court is going to sentence you \*\*\* to 24 years [in prison] \*\*\*.”

¶ 23 Defendant filed a motion to reconsider his sentence, which the trial court denied following a hearing.

¶ 24 This appeal followed.

¶ 25 II. ANALYSIS

¶ 26 Defendant argues his 24-year sentence for aggravated criminal sexual assault “is excessive by two years where the facts regarding the nature of the offense and the harm to the victim have not changed, [he] has taken substantial steps to rehabilitate himself, and the trial court originally determined that, without the sentencing enhancement, a 22-year sentence was appropriate.” He further contends that the court abused its discretion by “fail[ing] to strike a proper balance between [his] substantial efforts at rehabilitation and the need for retribution.” Defendant requests a “modest two-year sentence reduction.”

¶ 27 A. The Law

¶ 28 The Illinois Constitution provides that “[a]ll penalties shall be determined both

according to the seriousness of the offense and with the objective of restoring the offender to useful citizenship.” Ill. Const. 1970, art. I, § 11. Trial courts have “broad discretionary powers when selecting an appropriate sentence.” *People v. Garcia*, 2018 IL App (4th) 170339, ¶ 37. “The trial court’s sentence must be based upon the particular circumstances of the case, including (1) the defendant’s history, character, and rehabilitative potential; (2) the seriousness of the offense; (3) the need to protect society; and (4) the need for punishment and deterrence.” (Internal quotation marks omitted.) *People v. Klein*, 2022 IL App (4th) 200599, ¶ 34. Further, “[t]he Unified Code of Corrections \*\*\* sets forth mitigating and aggravating factors that the trial court must consider when determining an appropriate sentence.” *Id.* ¶ 35. “[T]he reviewing court must not substitute its judgment for that of the trial court merely because it would have weighed these factors differently.” *People v. Stacey*, 193 Ill. 2d 203, 209 (2000).

¶ 29 A sentence within the statutorily prescribed range is considered presumptively valid and cannot be reversed on appeal absent an abuse of discretion by the trial court. *People v. Musgrave*, 2019 IL App (4th) 170106, ¶ 56. A trial court abuses its discretion by imposing a sentence that, in pertinent part, “is greatly at odds with the spirit and purpose of the law.” *Id.* “The spirit and purpose of the law are promoted when the trial court’s sentence reflects both the seriousness of the offense and gives sufficient consideration to the defendant’s rehabilitative potential.” *People v. Etherton*, 2017 IL App (5th) 140427, ¶ 28. “A sentencing court is not required to give greater weight to [a] defendant’s rehabilitative potential than to the seriousness of the offense. [Citation.] In fact, the seriousness of an offense is considered the most important factor in determining a sentence.” *People v. Jackson*, 2014 IL App (1st) 123258, ¶ 53.

¶ 30 Section 5-5-4(a) of the Unified Code of Corrections (resentencing statute) (730 ILCS 5/5-5-4(a) (West 2024)) provides that in resentencing a defendant after a prior sentence has

been set aside, trial courts “shall not impose a new sentence for the same offense \*\*\* based on the same conduct which is more severe than the prior sentence less the portion of the prior sentence previously satisfied unless the more severe sentence is based upon conduct \*\*\* occurring after the original sentencing.” The resentencing statute “only applies to an original sentence within statutory limits imposed upon a conviction erroneously obtained or to an original sentence within statutory limits but which was held to have been obtained or aggravated in error.” *People v. Gardner*, 52 Ill. App. 3d 386, 389 (1977). It “does not apply when \*\*\* the original sentence was void.” *People v. Taylor*, 2015 IL 117267, ¶ 29. Moreover, when a sentence includes a mandatory enhancement, the sentence is not comprised of “distinct, independent prison terms,” but rather is treated as a “single” sentence. *People v. Barnes*, 364 Ill. App. 3d 888, 897 (2006); see *Taylor*, 2015 IL 117267, ¶ 21 (declining to consider the defendant’s 24-year sentence that included a 15-year enhancement as being comprised of “two separate pieces”); see also *People v. Applewhite*, 2025 IL App (1st) 231109-U, ¶ 34 (holding that the defendant, whose original 45-year sentence for murder included a 25-year enhancement, “did not originally receive a ‘base sentence’ for murder separate from the firearm enhancement, but one 45-year sentence that included the firearm enhancement”).

¶ 31

#### B. This Case

¶ 32

As an initial matter, we find it necessary to address (1) defendant’s references to the original sentencing court having “implicitly” imposed a 22-year sentence and (2) his attempt to establish the excessiveness of the sentence at issue through comparison with the original, “implicit” sentence of 22 years.

¶ 33

The following, which is taken from defendant’s opening brief, illustrates the crux of his excessive-sentence claim:

“[T]he original sentencing court was expressly aware that [his] sentence would include a mandatory 10-year sentencing enhancement [citation]. The court then sentenced [him] to a term of 32 years of imprisonment [citations]. The court thus implicitly believed that, without the 10-year enhancement, a sentence of 22 years was appropriate. On remand, when the 10-year enhancement was no longer available, the sentencing court had no reason to impose anything beyond a 22-year term. Nothing had gotten worse for [him], and the court had been presented with substantial evidence of [his] rehabilitation.”

The above notwithstanding, defendant claims that he “does not present a statutory argument”—*i.e.*, an argument that the trial court violated the resentencing statute on remand—but rather “an equitable excessive sentence argument.”

¶ 34 We expressly reject defendant’s argument. In effect, defendant asks this court to ignore supreme court precedent and apply the resentencing statute to this case, where it has no application due to his original sentence being found void *ab initio*. See *Taylor*, 2015 IL 117267, ¶ 29 (holding that the resentencing statute “does not apply when \*\*\* the original sentence was void”). We decline to do so.

¶ 35 Further, as the State correctly notes in its brief: “Where the original sentence is reversed as void, it is treated as if it had never been imposed.” See *id.* ¶ 15 (“A sentence based on a statute that violates the proportionate penalties clause is facially unconstitutional and thus void *ab initio*.”). Defendant has not cited to any authority holding that we may consider a void sentence for comparison purposes when determining whether a sentence imposed on remand is excessive. Even if we could compare a void sentence with a sentence imposed on remand, defendant did not originally receive a “base” sentence of 22 years separate and apart from the 10-

year enhancement. Instead, he received a single sentence of 32 years. *Applewhite*, 2025 IL App (1st) 231109-U, ¶ 34; see *Taylor*, 2015 IL 117267, ¶ 21; *Barnes*, 364 Ill. App. 3d at 897.

¶ 36 Ultimately, the narrow issue presented by defendant is whether the trial “court’s decision to impose a 24-year term of imprisonment was an abuse of discretion, since the court failed to strike a proper balance between [his] substantial efforts at rehabilitation and the need for retribution.”

¶ 37 Here, after we vacated defendant’s original 32-year sentence, the trial court resentenced him to 24 years in prison for aggravated criminal sexual assault. Aggravated criminal sexual assault is a Class X felony, with a sentencing range of 6 to 30 years in prison. See 720 ILCS 5/12-14(a)(1), (d)(1) (West 2006); 730 ILCS 5/5-8-1(a)(3) (West 2006) (providing that the sentencing range for a Class X felony is “not less than 6 years and not more than 30 years”). The sentence imposed by the court was within the applicable sentencing range for a Class X felony and therefore presumptively valid. *Musgrave*, 2019 IL App (4th) 170106, ¶ 56.

¶ 38 We cannot say the trial court abused its discretion in resentencing defendant to 24 years in prison. The record shows the court considered the seriousness of the offense as the main factor in aggravation, noting that “the crime itself was very serious and caused great harm to the [victim].” See *Jackson*, 2014 IL App (1st) 123258, ¶ 53 (“[T]he seriousness of an offense is considered the most important factor in determining a sentence.”). The court noted that the “victim, at a minimum, suffered serious emotional harm and it was a horrendous crime that was committed.” The court also considered in aggravation the need for deterrence and defendant’s “rather lengthy criminal history”—defendant had five prior felony convictions. In mitigation, the court considered defendant’s rehabilitative potential, stating, “[C]ertainly, since [defendant] has

been in prison, you—I’m commending all of your efforts \*\*\*. You’ve done a great deal[,] and the Court is mindful of that.”

¶ 39 The trial court clearly considered defendant’s rehabilitative potential, as evidenced by its comments at the resentencing hearing and the sentence itself, which was six years below the maximum. See, e.g., *People v. Brown*, 2017 IL App (1st) 142877, ¶ 64 (stating that it is “the trial court’s responsibility to strike the appropriate balance between rehabilitating [the] defendant and the seriousness of the offense”); *People v. Halerewicz*, 2013 IL App (4th) 120388, ¶ 42 (“[T]he existence of mitigating factors does not require the trial court to reduce a sentence from the maximum allowed.” (Internal quotation marks omitted.)). In other words, “the record indicates that the trial court considered mitigating evidence, but gave it less weight than other factors, which [it] was entitled to do.” *Brown*, 2017 IL App (1st) 142877, ¶ 64. Even if we would have weighed the applicable factors differently, we are prohibited from substituting our judgment for that of the trial court. *Id.*

¶ 40 In attempting to establish that the trial court failed to strike a proper balance between his rehabilitative potential and the seriousness of the offense, defendant cites *People v. Garcia*, 2023 IL App (1st) 172005, *People v. McKinley*, 2020 IL App (1st) 191907, and *People v. Lang*, 366 Ill. App. 3d 588 (2006). We find each case distinguishable from the instant case.

¶ 41 In *Garcia*, the trial court sentenced the defendant to an aggregate term of imprisonment totaling 100 years. *Garcia*, 2023 IL App (1st) 172005, ¶ 101. The *Garcia* court found that in imposing such a lengthy sentence, the trial court “effectively determined that [the defendant] has no prospect for rehabilitation.” *Id.* However, in making this determination, the trial court did not “make any findings on [the defendant’s] prospect of rehabilitation”; in fact, the trial court “said nothing about [his] potential for rehabilitation” when imposing its sentence. *Id.*

The *Garcia* court thus found that the trial court abused its discretion in sentencing the defendant because it could not tell from the record whether the court “sufficiently considered [the defendant’s] prospect for rehabilitation.” *Id.* Here, the trial court did not fail to consider defendant’s rehabilitative potential entirely. Instead, before imposing a sentence that was six years below the maximum and only four years above defendant’s recommendation, the court explicitly stated that it was “mindful” of “all of [defendant’s] efforts” while in prison, and the court even commended him on the “great deal” of work he had accomplished during that time. Thus, we find defendant’s reliance on *Garcia* unpersuasive.

¶ 42 In *McKinley*, the 16-year-old defendant was convicted of first degree murder in 2001 and originally sentenced to 100 years in prison. *McKinley*, 2020 IL App (1st) 191907, ¶¶ 4-5. The 100-year sentence was later vacated, and, in 2019, the trial court resentenced him to 39 years in prison, which was one year below the maximum for a juvenile offender who has not been found to be irretrievably depraved. *Id.* ¶¶ 19, 52, 80. The *McKinley* court held that “the trial court abused its discretion \*\*\* because the sentence was imposed with little regard to [the] defendant’s significant rehabilitation.” *Id.* ¶ 72. The *McKinley* court noted that “the resentencing hearing spanned two days and included five witnesses who testified on [the] defendant’s behalf.” *Id.* ¶ 68. The *McKinley* court summarized the defendant’s evidence at the resentencing hearing as demonstrating (1) “his impressive education credentials” obtained while in prison (*id.* ¶ 75); (2) that he had “been a model inmate,” with “zero tickets throughout his 17 plus years in prison” (*id.*); and (3) that he had shown remorse for his actions (*id.* ¶ 77). The *McKinley* court concluded that because the trial court made only “brief, general references to [the] defendant’s rehabilitation” in resentencing him, it “disregarded the extent of [the] defendant’s rehabilitation and did not afford it adequate weight.” *Id.* ¶ 78. The *McKinley* court also noted that the trial court

imposed a sentence one year below the maximum and made “comments suggest[ing] a predisposition to punish certain types of offenders more harshly.” *Id.* ¶ 80.

¶ 43 We find *McKinley* distinguishable in several important respects. To begin with, defendant was not a 16-year-old juvenile when he was convicted of the underlying offense but was instead 32 years of age—he was 31 at the time of the offense. *Id.* ¶ 1. Nor did defendant receive a sentence that was just one year shy of the maximum. *Id.* ¶ 80. Moreover, unlike the defendant in *McKinley*, who was described as “a model inmate,” with “zero tickets throughout his 17 plus years in prison,” defendant was involved in “two significant incidents” that led to him being placed in segregation for a combined total of 79 days. *Id.* ¶ 75. The *McKinley* court also partly based its decision on the fact the defendant had shown consistent remorse for taking the life of another person and apologized to the victim’s family at the resentencing hearing. *Id.* ¶ 77. Defendant has never shown remorse in this case. Lastly, the trial court in this case made no “comments suggest[ing] a predisposition to punish certain types of offenders more harshly.” *Id.* ¶ 80.

¶ 44 Turning to *Lang*, the trial court in that case sentenced the defendant to seven years in prison for aggravated unlawful use of a weapon by a felon. *Lang*, 366 Ill. App. 3d at 589. At the sentencing hearing, the trial court remarked, “ ‘The penitentiary is not a way for you to go and expect to find anything of a rehabilitative nature. We just warehouse people in penitentiaries. We don’t rehabilitate them.’ ” *Id.* at 590. The trial court also remarked, “ ‘So, for you, sentencing you to the penitentiary is simply to isolate and take you out of society.’ ” *Id.* at 591. The *Lang* court vacated the defendant’s sentence on appeal, finding the trial court had “failed to weigh the evidence presented at the [defendant’s] sentencing hearing and instead sentenced the [defendant] for punishment only based on [its] personal beliefs about the prison system.” (Internal quotation

marks omitted.) *Id.* at 592 (quoting *People v. Jeter*, 247 Ill. App. 3d 120, 131 (1993)). Here, no argument can be made that the trial court sentenced defendant “for punishment only based on [its] personal beliefs about the prison system,” without any consideration of his rehabilitative potential. (Internal quotation marks omitted.) *Id.*

¶ 45 Accordingly, for the reasons discussed, we find defendant has failed to establish that the trial court abused its discretion in resentencing him to 24 years in prison for aggravated criminal sexual assault. See *Brown*, 2017 IL App (1st) 142877, ¶ 63.

¶ 46 III. CONCLUSION

¶ 47 For the reasons stated, we affirm the trial court’s judgment.

¶ 48 Affirmed.