

NOTICE
This Order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

2026 IL App (4th) 250565-U
NO. 4-25-0565
IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

FILED
September 29, 2026
Carla Bender
4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	Peoria County
BYRON A. JARVIS,	)	No. 23CF1010
Defendant-Appellant.	)	
	)	Honorable
	)	Mark E. Gilles,
	)	Katherine S. Gorman,
	)	Judges Presiding.

JUSTICE DOHERTY delivered the judgment of the court
Justices Knecht and Grischow concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err in (1) transferring defendant to adult criminal court and (2) relying upon deterrence as a factor during the sentencing hearing.

¶ 2 In 2023, the State filed a juvenile petition against defendant Byron A. Jarvis, a minor, alleging that in August of that year he committed first degree murder. The State also filed a motion to transfer him to adult court, which the trial court granted. Defendant was then tried under the criminal laws of Illinois, convicted, and sentenced to 55 years in prison. He now appeals, arguing that the trial court erred by (1) transferring him to adult court even though the State failed to present evidence of every applicable statutory factor and (2) placing undue emphasis on the factor pertaining to deterrence during the sentencing hearing. We disagree and affirm.

¶ 3 I. BACKGROUND

¶ 4 A. The Delinquency Petition

¶ 5 In September 2023, a juvenile petition was filed against defendant alleging three counts of first degree murder in violation of section 5/9-1(a)(1) of the Criminal Code of 2012 (Criminal Code) (720 ILCS 5/9-1(a)(1) (West 2022)). In relevant part, it alleged that on or about August 22, 2023, defendant discharged a firearm and shot Dahvie Brown-Bey, who died as a result. Each count pertained to the same incident but alleged a different *mens rea*.

¶ 6 B. Motion to Transfer

¶ 7 The same day the State filed the petition, it also filed a motion to transfer, seeking to have defendant prosecuted under the criminal laws of the state pursuant to section 5-805(3) of the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/5-805(3) (West 2022)). The motion stated that at the time of the offense, defendant was 14 years and 7 months old.

¶ 8 The transfer hearing was held in December 2023. The record reflects that during this hearing, the trial court took judicial notice of a few other proceedings involving defendant, including two prior delinquency adjudications, in which he was placed on probation for a Class 3 burglary charge and, separately, a Class A criminal trespass to vehicle charge. It was alleged that at the time he committed the present offense, he was still on probation in at least one of these other cases. In a separate civil proceeding involving his parents, defendant was found to be neglected, and the court took judicial notice of all reports submitted to the court in that case. The evidence at the hearing otherwise included, in relevant part, surveillance footage of the incident and a stipulation as to what police officers who responded to the incident or interviewed witnesses would testify to.

¶ 9 In pertinent part, the evidence showed that the incident occurred in front of numerous people and involved an individual in a blue hoodie firing numerous gunshots from point-blank range at the victim's head. The individual then fled the scene.

¶ 10 Chris Mischley, a juvenile probation officer in Peoria, was called as a witness for the State. He testified regarding a few of the applicable factors when considering transferring a juvenile defendant to adult court, including the services available to a defendant while incarcerated. Specifically, he testified that “it’s the position of Juvenile Court Services that everyone is capable of being rehabilitated. And so, I would say the services that are available should be adequate in aiding that.” However, he also stated that he could not “definitively say on an individual basis” whether rehabilitation could occur by the time the juvenile court lost jurisdiction over defendant, and that he was a “moderate risk” with a 43% chance of reoffending based on a juvenile risk assessment. Services at the Illinois Department of Juvenile Justice (IDJJ) include anger management, cognitive-based therapies, psychological evaluations, and substance abuse assessments and treatments. Mischley indicated that he was familiar with the Illinois Department of Corrections (DOC) services as well, which “would address those same concerns.” While he did not know what services DOC offered specifically, he testified that they included “advocacy programs,” such as “substance abuse treatments, anger management services, medications. Things like that.” His knowledge was based on previous people going from IDJJ to DOC and being ordered to complete various services. During a separate line of questioning, Mischley noted that while defendant had completed some of his probation from his other offenses, such as completing a DNA kit and abiding by the no-contact orders, he failed to write the requisite apology letters.

¶ 11 After hearing the evidence, the trial court found that “[t]here’s probable cause to believe that the allegations in the motion are true, and I find that it’s not in the best interest of the public to proceed under the Juvenile Court Act.” Relevant to the issues on appeal, the court reasoned as follows:

“In considering any issues with respect to the mental health, physical, or educational history of the minor, there wasn’t much life to the juvenile delinquency cases. The Court was not provided with any extensive information about his education.

In the JA case that I did take judicial notice of and reviewed, I did note that it was planned even at the close of that JA case that the Department of Children and Family Services would provide intact services with the Department to be considering whether or not Byron would need any counseling with respect to domestic violence in that it was believed that he had witnessed domestic violence between his parents.”

The court also stated that it could not find the juvenile justice system had any advantages over the adult criminal justice system, but if it could, they would be inadequate, and that the security of the public requires sentencing in adult court.

¶ 12 Otherwise, the trial court referenced facts relevant to the other statutory factors, such as defendant’s age, history as a victim of abuse, and willingness to participate in services. The court also referred to the petitions to revoke his probation and the lack of evidence that defendant participated meaningfully in probation. The court placed emphasis on defendant’s criminal history and the circumstances and seriousness of the charges in the present case, noting that it was “the most serious offense that one could imagine,” having caused someone’s death, and that defendant committed the offenses in an aggressive, premeditated, “chillingly cold-blooded manner.” It also found that there is not a reasonable likelihood defendant could be rehabilitated before his twenty-first birthday.

¶ 13 The trial court then granted the State’s motion to transfer defendant to adult court.

¶ 14

C. Trial

¶ 15

In December 2024, a jury trial commenced, which we need not recount in detail, given that defendant does not challenge his conviction. Nevertheless, we briefly elucidate a few facts for context. The State conceded that much of the evidence pertaining to Dahvie’s death would not be contested, and the primary question was the identity of the person who fired the fatal shot. Evidence was presented in the form of surveillance videos, testimony, and physical evidence. The evidence showed, in relevant part, that Dahvie had been shot at point-blank range by a person wearing a blue hoodie and blue jeans. One witness identified defendant as the shooter, and another testified that he saw defendant running away immediately after the shots were fired. Defendant’s former caretaker, Symia Prieto, testified that defendant came to her on the night of the shooting dressed in a blue hoodie and blue jeans and told her he “killed him” and had “nailed his ass.” Defendant’s phone had deleted texts that he sent to Prieto shortly after the shooting, which stated, “Iam sorry for the shii I caused tho,” “I should’ve stayed inna crib,” and, “I’m sorry for whatever I put u n your family thru.”

¶ 16

After closing arguments, the jury found defendant guilty of first degree murder, in violation of section 5/9-1(a)(1) of the Criminal Code. 720 ILCS 5/9-1(a)(1) (West 2022).

¶ 17

D. Sentence

¶ 18

In March 2025, the trial court held the sentencing hearing. The State began by calculating the proper sentencing range as 20 to 60 years’ imprisonment, plus 25 years to natural life for the firearm enhancement, which the court could choose to impose. Defendant would be eligible for parole after 20 years, unless he was given natural life, in which case he would be eligible for parole after 40 years. The court noted that it was considering the factors set forth in section 5-4.5-105(a) of the Unified Code of Corrections (730 ILCS 5/5-4.5-105(a) (West 2024)).

¶ 19 The trial court then heard testimony. Roberto Vasquez, a sergeant in the detective bureau of the Peoria Police Department and a lead detective in this case, testified regarding several previously reported incidents involving defendant. Specifically, in February 2022, defendant reportedly stole a classmate's phone. In November 2022, a female classmate of defendant's reported that defendant slammed her on the ground and struck her with a firearm. In January 2023, police caught defendant fleeing from a car break-in, with the car owner's debit card, a screwdriver, and a replica pistol on defendant's person. In May 2023, defendant was caught fleeing from a stolen, crashed vehicle on one occasion and a separate, stolen vehicle on another occasion. In July 2023, two girls reported that defendant had shown them two handguns and asked which one they would prefer to be shot with. That same month, a stolen vehicle was discovered to have a loaded firearm in it, and the "in-car video" led the officers to believe defendant had placed the firearm there. Furthermore, Vasquez testified that the extraction of defendant's phone revealed numerous photographs of defendant holding what appeared to be various firearms.

¶ 20 Dahvie's mother and grandmother provided testimony, in which they generally described who Dahvie was and the impact of his death. Dahvie's aunt read a victim-impact statement. Defendant's counsel offered no evidence in mitigation.

¶ 21 The State proceeded to make its argument, which, in relevant part, mentioned that defendant lied in the presentence investigation about never being in trouble. The State also referenced defendant's school records showing instances of violence against classmates, disrespect to teachers, and disruptiveness. At the close of its argument, the State requested a 60-year sentence.

¶ 22 Counsel for defendant then made his argument, in part noting the significance of defendant's status as a juvenile offender and citing caselaw about its impact on sentencing, stating:

“[T]he Courts have long acknowledged under [*Miller v. Alabama*, 567 U.S. 460

(2012)] and its [progeny] that juvenile sentencing cases bring up unique sentencing factors related to the great and growing scientific consensus that the human brain does not stop developing during adolescence in that particularly [sic] portions of the brain responsible for the regulation of impulses and executive function, the frontal cortex, generally do not finish developing until the early to mid 20s. These—for these reasons the Courts—Supreme Court in *Miller* found a sentence for [a] juvenile of over 40 years without the possibility of parole is effectively a presumptive life sentence, and it is unconstitutional on its face.”

The defense then noted that defendant’s school records show “a very lengthy history of disciplinary records indicating, I think, unquestionably, a lack of maturity even for someone at the age of 14,” as well as academic failure. The defense also referenced defendant’s lack of familial support and unstable home environment (moving to nine different homes with his mother during his childhood). The defense requested a 35-year sentence in DOC.

¶ 23 Defendant then addressed the trial court himself, stating, “I just want to apologize to the family of Dahvie Brown-Bey. I know how it feels to be in a situation after losing a person and losing somebody you love close to you. I apologize and I wish the best for everybody, and may the Lord be with everybody.”

¶ 24 After hearing the evidence and arguments, the trial court addressed defendant, stating that it would be more inclined to forgive him if his offense was detrimental to himself alone, but that other people were affected, including Dahvie, his family, and the 10-year-old who witnessed the murder. The court indicated that it was evaluating all the factors and “just keep[s] coming back to one. And that’s deterrence.” It further stated as follows:

“And I feel like I’m screaming in the wind because I’ve sentenced a lot of people over the miles [*sic*] and to what end? There’s going to be another 14-year-old that’s going to shoot someone for no reason, and I mean, this is all I can do is try to send the message that that behavior will not be tolerated. People who are—who do not have guns legally and particularly kids you should not be toting them around ever. You don’t need to. You should be out in the street playing basketball and playing football and doing things kids do.

And your behavior since that tragic day in August of 2023 you have continued to act out in a detrimental fashion that certainly is adversely affecting you, but it’s also harming others ***.

*** [A]s I consider sentencing you, it would appear to the Court that your pattern of behavior suggests that your potential for rehabilitation most certainly at this time is not very high given your behavior since you committed this offense, and we cannot have people going around shooting people in cold blood because they had a rotten childhood.”

¶ 25 The trial court sentenced defendant to 55 years, with a possibility of parole at 20 years, followed by a period of 3 years’ mandatory supervised release. The court noted that it was handing down 30 years for the murder and 25 years for the firearm enhancement, adding the latter because “it’s important to the Court that there’s some consideration of deterrence with respect to individuals under the age of 18 carrying guns and terrorizing the people in their village.”

¶ 26 E. Posttrial Motion to Reconsider Sentence

¶ 27 In April 2025, defendant filed a motion to reconsider his sentence, arguing “[t]hat

the court gave insufficient weight to defendant's age and possibility of rehabilitation as a mitigating factor." He also argued that his sentence was excessive. In May, the trial court heard the motion, in which defense counsel rested on the arguments in the written motion. Counsel for the State briefly indicated that "the Court did a sentencing hearing and knew the facts of the case and had a full and detailed presentence investigation, sentenced the defendant accordingly." The court then denied the motion.

¶ 28 This appeal followed.

¶ 29 II. ANALYSIS

¶ 30 A. Transfer to Adult Court

¶ 31 Defendant argues that the trial court improperly transferred him to adult court because the State provided inadequate evidence regarding several factors as required by section 5-805(3)(b) of the Juvenile Court Act (705 ILCS 405/5-805(3)(b) (West 2022)). Defendant specifically argues that "the State presented no specific evidence concerning the facilities or services that would be available to [defendant] in [IDJJ]," that there was no evidence "concerning what facilities or services would be available to [defendant] if he were sent to [DOC]," and that there was no information about defendant's education.

¶ 32 Defendant also contends this issue is subject to appellate review because sufficiency of the evidence issues are not forfeitable, are subject to plain error review, or are subject to a claim of ineffective assistance of counsel. There is some caselaw support for these avenues of review, but they are contingent on an error having occurred in the first instance. See *People v. Williams*, 2022 IL 126918, ¶ 49 (holding that a defendant cannot obtain relief on an unpreserved error under the plain error doctrine if he would not have been entitled to relief on the same error if preserved); *People v. Coleman*, 158 Ill. 2d 319, 349 (1994) (rejecting claim that counsel was

ineffective in failing to preserve an issue for review in part because “the issues defense counsel failed to preserve are, for the most part, without merit, and did not prejudice [the] defendant”).

With that in mind, we turn to the merits.

¶ 33 Section 5-805(3)(b) of the Juvenile Court Act states:

“In making its determination on the motion to permit prosecution under the criminal laws, the court shall consider among other matters:

(i) the age of the minor;

(ii) the history of the minor, including:

(A) any previous delinquent or criminal history of the minor,

(B) any previous abuse or neglect history of the minor,

(C) any mental health, physical, or educational history of the minor or combination of these factors, and

(D) any involvement of the minor in the child welfare system;

(iii) the circumstances of the offense, including:

(A) the seriousness of the offense;

(B) whether the minor is charged through accountability,

(C) whether there is evidence the offense was committed in an aggressive and premeditated manner,

(D) whether there is evidence the offense caused serious bodily harm,

(E) whether there is evidence the minor possessed a deadly weapon,

(F) whether there is evidence the minor was subjected to outside pressure, including peer pressure, familial pressure, or negative influences, and

(G) the minor's degree of participation and specific role in the offense;

(iv) the advantages of treatment within the juvenile justice system including whether there are facilities or programs, or both, particularly available in the juvenile system;

(v) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections:

(A) the minor's history of services, including the minor's willingness to participate meaningfully in available services;

(B) whether there is a reasonable likelihood that the minor can be rehabilitated before the expiration of the juvenile court's jurisdiction; and

(C) the adequacy of the punishment or services.

In considering these factors, the court shall give greater weight to the seriousness of the alleged offense and the minor's prior record of delinquency than to the other factors listed in this subsection." 705 ILCS 405/5-805(3)(b) (West 2022).

¶ 34 The Illinois Supreme Court has made clear that a trial court at a transfer hearing must consider these statutory factors (*People v. Clark*, 119 Ill. 2d 1, 14 (1987) (referencing predecessor version of section 5-805)) and should "state its reasons for its disposition 'with

sufficient specificity to permit meaningful review’ ” (*People v. D.B.*, 202 Ill. App. 3d 194, 205 (1990)). “[M]ere recitation in the record that all statutory factors have been considered is not enough to affirm an order transferring a minor to criminal court.” *Clark*, 119 Ill. 2d at 18. However, when a court fails to provide such a formal statement of its reasons or findings of fact regarding its decision, the appellate court may review the decision “by examining the evidence in the record.” *D.B.*, 202 Ill. App. 3d at 205.

¶ 35 We turn first to defendant’s argument that the evidence was insufficient regarding the facilities or services that would be available to defendant in DOC compared to IDJJ. The trial court addressed these factors succinctly, reasoning that any advantages IDJJ had would be insufficient and that the security of the public required adult sentencing. Furthermore, it heard evidence pertaining to both facilities and the services each offered, particularly in the form of testimony from Mischley, who, albeit summarily and based on limited experience, listed several services that DOJ and IDJJ provided.

¶ 36 Defendant’s argument on appeal is largely that the testimony is lackluster in substance and basis. However, we have previously accepted testimony merely indicating that there are services available. See *People v. Watkins*, 2021 IL App (4th) 200229-U, ¶ 41 (holding that it was sufficient when there was testimony that the juvenile justice system had “ ‘education services, anger management, [and] substance abuse’ ” programs, but no evidence about what was available in the adult prison system). Moreover, the trial court’s own knowledge about available services may be sufficient. See *People v. Baxtrom*, 81 Ill. App. 3d 653, 659 (1980) (finding that there was enough evidence to conclude that the defendant should be certified to be tried as an adult, reasoning in part that the statute does not require the judge to consider evidence beyond his knowledge of available facilities). Indeed, the applicable facilities are regulated by statutes, such that the court

could have had a higher degree of confidence about what services were provided at each institution. See 730 ILCS 5/3-2.5-20 (West 2022) (providing that IDJJ “shall” provide services, including counseling and treatment placement, referral services, mental health services, educational services, and substance abuse services); see also *id.* § 3-2-2(1)(a), 3-8-2(a) (providing for DOC to establish and maintain psychiatric, psychological, and social services in its facilities). As such, we find that the record and the court’s findings with respect to this factor were sufficient.

¶ 37 Additionally, the statute requires consideration of “any mental health, physical, or educational history of the minor *or* combination of these factors.” (Emphases added.) 705 ILCS 405/5-805(3)(b)(ii)(C) (West 2022). The trial court noted that there was a reference to DCFS providing intact counseling services related to domestic violence, based on the belief that defendant had witnessed domestic violence between his parents. The court otherwise indicated there “wasn’t much” life to the juvenile delinquency proceedings with respect to this factor. The juvenile delinquency proceedings were not part of the record on appeal, so we cannot delineate what exactly “wasn’t much” means. Nevertheless, we can fairly conclude there was *some* evidence regarding this factor, including defendant’s education, which the court reviewed.

¶ 38 Furthermore, the statute itself states that the trial court can give greater weight to “the seriousness of the alleged offense” and “the minor’s prior record of delinquency.” *Id.* § 5-805(3)(b). Here, both factors weighed in favor of transfer; the court was clear that it considered the offense to be the most serious imaginable, and it noted defendant’s criminal history.

¶ 39 Overall, the record at the time of the transfer hearing indicates there was an individualized determination of the need for transfer based on a reasoned consideration of the applicable factors, including the conditions at DOC and IDJJ and defendant’s “mental health, physical, or educational history.” While the record could have been more extensive, there is no

operative mathematical formula for determining whether transfer is appropriate. *Baxtrom*, 81 Ill. App. 3d at 659. Indeed, the Illinois Supreme Court has indicated that it does not require courts to undertake a painstaking and pedantic breakdown of each factor before transferring a juvenile to adult court, so long as due process and fair treatment are in place. *People v. Taylor*, 76 Ill. 2d 289, 305-06 (1979). The most important factors in the analysis strongly favored transfer, and the developments in the record as the case proceeded to trial and sentencing further bolstered the decision to transfer. Accordingly, we do not conclude there was insufficient evidence to allow transfer to adult court. There being no error, there can be neither plain error nor ineffective assistance of counsel on this particular issue.

¶ 40 B. Deterrence as a Consideration in Sentencing

¶ 41 Petitioner further argues that the trial court erred when it used deterrence as a primary consideration at defendant’s sentencing hearing. He contends that this issue, too, is preserved for review on appeal or is reviewable as an ineffective assistance of counsel claim due to counsel’s failure to preserve the issue. Similar to the prior claim, we note that a claim of ineffective assistance of counsel cannot succeed if there was no trial court error to which counsel might have objected. *Coleman*, 158 Ill. 2d at 349. We review the merits accordingly.

¶ 42 Whether a sentence is excessive is generally reviewed under an abuse of discretion standard. *People v. Lee*, 2023 IL App (4th) 220779, ¶ 55. A sentence within statutory limits will not be deemed excessive absent an abuse of discretion. *People v. Jones*, 168 Ill. 2d 367, 373-74 (1995). “An abuse of discretion will not be found unless the court’s sentencing decision is fanciful, arbitrary, or unreasonable to the degree that no reasonable person would agree with it.” (Internal quotation marks omitted.) *People v. Lawson*, 2018 IL App (4th) 170105, ¶ 28.

¶ 43 The applicable sentencing statute is section 5-4.5-105 of the Unified Code of

Corrections (730 ILCS 5/5-4.5-105 (West 2024)). It sets out 12 separate factors in mitigation when determining a sentence for someone who commits an offense while under the age of 18. It also provides the trial court with discretion, stating as follows:

“[T]he court may sentence the defendant to any disposition authorized for the class of the offense of which he or she was found guilty *** and may, in its discretion, decline to impose any otherwise applicable sentencing enhancement based upon firearm possession, possession with personal discharge, or possession with personal discharge that proximately causes *** death to another person.” *Id.* § 5-4.5-405(e).

¶ 44 Defendant specifically argues here that the trial court’s reasoning underlying the 55-year sentence, in which it kept “coming back to” “deterrence,” was a violation of *Miller* and its progeny, which stand for the proposition that juveniles are less culpable than adults because of their immaturity, recklessness, and impetuosity, such that deterrence should have a diminished role in sentencing. See *Miller*, 567 U.S. at 472. Specifically, courts have reasoned that juveniles are less likely to consider the punishment that results from their decisions. *People v. Smith*, 2022 IL App (4th) 200666, ¶¶ 24-25.

¶ 45 However, we note that while there is a diminished role of deterrence in juvenile sentencing, it still has a role. Courts have repeatedly confirmed that even after *Miller*, deterrence has a role in juvenile sentencing. *People v. Lee*, 2023 IL App (1st) 221565-U, ¶ 45 (citing *Smith*, 2022 IL App (4th) 200666, ¶ 28); *Smith*, 2022 IL App (4th) 200666, ¶ 22 (rejecting the notion that deterrence has no weight in determining the sentence handed down to a juvenile offender). As such, courts have drawn a line in the sand between deterrence as a factor and deterrence as the predominant factor in sentencing juveniles. See *Lee*, 2023 IL App (1st) 221565-U, ¶¶ 45-46

(distinguishing *People v. McKinley*, 2020 IL App (1st) 191907, ¶ 89, in which deterrence was improperly relied upon as an “overriding factor.”).

¶ 46 Here, the trial court said that it “just keep[s] coming back to” “deterrence,” suggesting that it may have placed undue emphasis on that factor. However, in context, its reasoning at the sentencing hearing indicates that it also accounted for other factors, such that deterrence was not the sole, or even predominant, consideration. For example, in aggravation, the court indicated that it would be more inclined to “forgive” defendant if his actions had affected only him, acknowledging some consideration of the “serious harm” caused. 730 ILCS 5/5-5-3.2(a)(1) (West 2024). Indeed, the crime he was convicted of in this case was murder, and the facts show that he committed it in an aggressive and premeditated manner in front of children and in broad daylight. *Id.* § 5-4.5-105(a)(5). The court also referenced defendant’s behavior aside from this offense, indicating some consideration of his “prior delinquency or criminal activity” (*id.* § 5-5-3.2(a)(3)) and his low probability of rehabilitation (*id.* § 5-4.5-105(a)(4)). Furthermore, in mitigation, the court referenced defendant’s age, lack of support, and tough childhood, which directly pertain to factors listed in the Unified Code of Corrections. See *id.* § 5-4.5-105(a)(1), (a)(3). Though the court could have emphasized the point more, we note that the record supports the notion that factors other than deterrence affected the sentence. In *Lee*, 2023 IL App (1st) 221565-U, ¶¶ 2, 46, a natural life sentence was upheld when deterrence was considered but was not an overriding consideration.

¶ 47 Additionally, much of the discussion around the diminished role of deterrence as a consideration at juvenile sentencing has occurred within the context of life sentences without the possibility of parole, in which the juvenile defendant is given no chance for rehabilitation. See *Montgomery v. Louisiana*, 577 U.S. 190, 207-08 (2016) (pertaining to life without parole); *People*

v. Morris, 2017 IL App (1st) 141117, ¶ 33 (pertaining to a 100-year sentence that the court ruled was a functional sentence of life without parole); *McKinley*, 2020 IL App (1st) 191907, ¶ 89 (same); see also *People v. Buffer*, 2019 IL 122327, ¶ 40 (holding that any sentence of 40 years or above without parole is a *de facto* life sentence for a juvenile, in violation of the eighth amendment (U.S. Const., amend. VIII)). Indeed, we have distinguished those situations from ones in which a less severe sentence was imposed. See *Smith*, 2022 IL App (4th) 200666, ¶ 28 (distinguishing from *Miller* and its progeny because the sentence imposed was 22 years for a first degree murder offense rather than a sentence of life without parole). Here, there is a chance of parole after 20 years. We find this significant. The possibility of parole takes this case out of the life-without-parole context, honors the interest in giving juveniles a chance to rehabilitate themselves, and comports with the concerns expressed in *Miller* and its progeny.

¶ 48 Defendant cites numerous cases in which a defendant's sentence was reversed because it was based too heavily on deterrence as a factor. See, *e.g.*, *People v. Haynie*, 2020 IL App (1st) 172511, ¶ 34 (holding that placing an emphasis on deterrence before imposing a 60-year sentence on a juvenile was incongruous with *Miller*); see also *McKinley*, 2020 IL App (1st) 191907, ¶ 91 (holding that the sentence was improperly based on deterrence and disregarded evidence of the defendant's extensive rehabilitation). However, these cases are inapposite, not only because they pertain to life without parole, but also because, on balance, the possibility of rehabilitation was significant. In *Haynie*, the court reasoned that "nothing in the record support[ed] a finding that defendant's conduct reflected irreparable corruption beyond the possibility of rehabilitation." *Haynie*, 2020 IL App (1st) 172511, ¶ 33. The defendant was no longer in a gang, mentored younger gang members while incarcerated, and issued a " 'heartfelt apology.' " *Id.* Despite the absence of a finding that he was "incorrigible or incapable of being reformed," the

defendant's 60-year sentence was imposed without the possibility of parole. *Id.* ¶¶ 30, 35. The defendant in *McKinley* was similarly capable of rehabilitation and faced a functional life sentence. *McKinley*, 2020 IL App (1st) 191907, ¶ 91. Here, defendant continued to engage in violent conduct both before and after the offense, failed to write an apology letter, and issued only a very brief apology during sentencing. Indeed, at sentencing, the trial court indicated that his "potential for rehabilitation most certainly at this time is not very high."

¶ 49 Overall, the trial court's remark that it "just keep[s] coming back to" "deterrence" ostensibly suggests an overreliance on that factor. However, the record as a whole reflects that the court only relied upon deterrence as one of numerous statutory considerations. Others, such as defendant's repeated criminal offenses and violent actions, as well as the extreme circumstances of the offense in this case, are significant. Further, the court did not hand down the maximum sentence, and defendant is eligible for parole after 20 years, which not only suggests an appropriate level of judicial restraint, but also takes this case out of the life-without-parole context, in which the concern with overreliance on deterrence is at its highest.

¶ 50 Accordingly, we find that the trial court did not abuse its discretion.

¶ 51 III. CONCLUSION

¶ 52 For the reasons stated, we affirm the trial court's judgment.

¶ 53 Affirmed.