

No. 129992
IN THE
SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Appellate Court of Illinois, No. 1-22-0035.
	)	
Plaintiff-Appellant,	)	There on appeal from the Circuit Court of Cook County, Illinois , No.
	)	10 CR 17983.
-vs-	)	
	)	Honorable
PHAROAH MORRIS,	)	Stanley J. Sacks,
	)	Judge Presiding.
Defendant-Appellee.	)	

BRIEF AND ARGUMENT FOR DEFENDANT-APPELLEE

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ISSUES PRESENTED FOR REVIEW

1. Whether this Court should affirm the appellate court's holding that the trial judge abused his discretion by predetermining that he would reimpose the same 100-year sentence on Pharoah Morris on remand and where the judge's comments throughout sentencing established that he did not actually consider the youth-related factors required by 730 ILCS 5/5-4.5-105 and as mandated by the appellate court.
2. Whether this Court should affirm the appellate court's holding that Pharoah Morris's case must be remanded for resentencing before a different judge.

STATUTES AND RULES INVOLVED

730 ILCS 5/5-4.5-105(a) (2022):

(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.

STATEMENT OF FACTS

In 2010, sixteen-year-old Pharoah Morris was charged with the first degree murder of D'Antonio Goss and the attempted murder and aggravated battery with a firearm of Corey Thompson. (C. 52,76) Following a jury trial, Pharoah was found guilty of all counts and Judge Stanley Sacks sentenced him to consecutive prison terms of 55 and 45 years, for a *de facto* life sentence of 100 years. (R. 604, 665-66) This appeal involves his resentencing, pursuant to *Miller v. Alabama*, 567 U.S. 460 (2012) and 730 ILCS 5/5-4.5-105(a) (2022), at which Judge Sacks reimposed the same 100-year term. (R. 1203)

Trial Proceedings

At trial, the evidence showed that, on September 8, 2010, Corey Thompson was walking home from high school with a group of friends, including D'Antonio Goss, when he came upon Pharoah and a person named Tank Sheppard at the corner of 86th and Saginaw in Chicago. (R. 263-64, 266-69) Pharoah said, "This is what y'all want, this is what y'all going to get," pulled out a gun, and pointed it at Thompson. (R. 271) Thompson and Goss ran in different directions and, as Pharoah fired the gun, Thompson felt pain in his backside and buttocks. (R. 274) He fell down but got up and kept running before he finally laid down on the street. (R. 274) He heard Goss asking if he was okay. (R. 276) Thompson saw Pharoah walking in Goss's direction and then heard a few more gunshots before passing out. (R. 276) Goss later died from a gunshot wound to the arm. (R. 449) Thompson was taken to the hospital, where he underwent two surgeries. (R. 277)

Dorotha Sims and Dashanna Johnson were walking with Thompson and

Goss that afternoon. (R.337) Johnson testified that she saw Pharoah with a gun in his hands. (R. 363) Sims testified that she saw Goss approach Pharoah and Pharoah responded by pointing the gun at Goss. (R. 340) Johnson and Sims ran. (R. 340) When Sims turned around, she heard gunshots. (R. 340) Both girls ran home. (R. 365)

Marvin Floyd testified that, two weeks prior to the September 8 shooting, he was riding his bike when he saw Pharoah at a gas station with a gun in his pants. Floyd turned around, trying to flee, then felt a shot in his back. (R. 320-23) He was taken to the hospital, where he stayed for two months and underwent two surgeries. (R. 326)

The State also presented evidence from Ricky Whitehead, Pharoah's cellmate at Cook County Jail, who testified that Pharoah gave him a list of witnesses that he "wanted taken care of," which Whitehead said he understood to mean that Pharoah wanted them killed. (R. 376, 382) At the time, Whitehead was a "general" with the P Stones street gang, and lived in the same neighborhood as Pharoah. (R. 394) Whitehead showed the list to a prison official and later returned the list to Pharoah. (R. 385)

Eric Bucio, an instructor at the jail, testified that he was assigned to investigate Pharoah and, during the course of the investigation, discovered the list in Pharoah's cell. (R. 507-509)

After the State rested, the defense presented no evidence. (R. 516) The jury found Pharoah guilty of the first degree murder of Goss, the attempted murder of Thompson, and the aggravated battery with a firearm of Thompson. (R. 654-55)

Original Sentencing

At sentencing, the applicable sentencing range for murder was between 20 and 60 years in prison, with an additional term of 25 years to life for personally discharging a firearm proximately causing death. 730 ILCS 5/5-4.5-20(a) (West 2013); 730 ILCS 5/5-8-1(a)(1)(a), (d)(iii) (West 2013). For the attempted murder conviction, the sentencing range was 6 to 30 years plus a 20-year firearm add-on for the personal discharge of a firearm. 730 ILCS 5/5-4.5-25(a) (West 2013); 720 ILCS 5/8-4(c)(1)(C) (West 2013). The sentences were to run consecutively for a minimum mandatory sentence of 71 years. 730 ILCS 5/5-8-4(d)(1) (West 2013). Pharoah's original sentencing hearing occurred after the United State Supreme Court held in *Miller v. Alabama*, 567 U.S. 460, 465 (2012), that mandatory life sentences for juveniles violated the Eighth Amendment, but before this Supreme Court extended *Miller's* holding in *People v. Reyes*, 2016 IL 119271, to *de facto* life sentences.

Pharoah's pre-sentence investigation (PSI) report revealed that Pharoah's father was absent from his life and incarcerated in another state. (CI. 283) Pharoah first began to see a psychiatrist at age 12 to address his anger management issues. (CI. 288) At the same age, Pharoah was diagnosed with bipolar disorder. (CI. 288) His mental health struggles led him to be hospitalized at Hartgrove Hospital at the ages of 12, 13, and 14, and he attempted suicide on three occasions, at the age of 15, 17, and 18. (CI. 288) He also suffered from a serious substance abuse problem, first trying alcohol when he was 11 years old, leading to his drinking 20 glasses of hard alcohol every day until his incarceration. (CI. 288) Pharoah

also first smoked marijuana at the age of 11. (CI. 288) He then began to smoke three blunts a day and, by age 13, had increased his intake to five blunts a day. (CI. 288)

Following evidence and argument, Judge Sacks stated that he “[could] not remember a case as horrible as this one,” and concluded that “Pharoah has a malignant heart. I like that phrase, a malignant heart. It applies to Pharoah Morris. It was written for him.” (R. 654) In considering mitigation, the judge commented, “What’s mitigating about Pharoah Morris? Not much. At the time of the murder, 16 years old, that’s about all that’s mitigating.” (R. 651) Judge Sacks then sentenced him to 55 years for murder and 45 years’ imprisonment for the attempt murder charge, with the aggravated battery merging into this offense, for an aggregate sentence of 100 years in prison. (R. 655)

Direct Appeal

On direct appeal, Pharoah argued, *inter alia*, that his sentence of 100 years’ imprisonment was a *de facto* life sentence imposed without consideration of the youthful characteristics outlined in *Miller v. Alabama*, 567 U.S. 460. *People v. Morris*, 2017 IL App (1st) 141117, ¶19.

The appellate court agreed, noting that the Supreme Court in *Miller* held that the Eighth Amendment of the United States constitution “forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile offenders.” *Id.*, at ¶21, quoting *Miller*, 567 U.S. at 479. *Miller* emphasized that recognition of youth is the most important consideration in fashioning a sentence. *Morris*, 2017 IL App (1st) 141117, at ¶ 21, citing *Miller*, 567 U.S. at 472-73. And,

as the appellate court explained, *Miller* recognized that juveniles have diminished culpability and a greater prospect for reform, and therefore “they are less deserving of the most severe punishments.” *Morris*, 2017 IL App (1st) 141117, at ¶ 21, quoting *Miller*, 567 U.S. at 471.

The appellate court held that the 100-year sentence imposed on Pharoah was improper because the trial court “did not meaningfully consider [Pharoah’s] youth and attendant characteristics” before sentencing him. *Morris*, 2017 IL App (1st) 141117, at ¶30. Accordingly, the appellate court vacated Pharoah’s sentence and remanded for resentencing with consideration of the *Miller* factors since codified in 730 ILCS 5/5-4.5-105. *Id.*, at ¶ 44. The appellate court further held that Pharoah could elect to be resentenced on remand under the recently enacted 730 ILCS 5/5-4.5-105(a), which requires sentencing judges to consider the youth-based factors set out in *Miller* and which gave the judge discretion over whether to impose the firearm enhancements. *Id.*, at ¶¶ 34, 37, 44.

New Sentencing Proceedings

Judge Sacks again presided over Pharoah’s resentencing on remand. (R. 911, 920) However, Pharoah was now represented by private counsel due to a conflict of interest with the Public Defender’s Office, which was representing Yolanda Perry, Pharoah’s mother, who had been charged with the attempt murder of Pharoah’s brother, Ramsey Morris. (R. 923)

Prior to sentencing, the defense prepared a “Defendant’s Sentencing Memorandum and Commentary on Sentencing Factors.” (C. 292-95) According to the memo, Pharoah’s father, Pharoah Morris Sr., was not present during his

childhood and the two did not have a relationship. It noted that Pharoah's father was currently incarcerated in Wisconsin. (C. 293) Pharoah grew up with his mother, Yolanda, and his four siblings. (C. 293) Whereas the PSI from Pharoah's first sentencing indicated that he never experienced any abuse or neglect, this new sentencing memo revealed that his mother was abusive, and that Pharoah's childhood "involved constant neglect broken only by beatings." (C. 293; CI. 283) It also chronicled that Pharoah was sexually abused by his mother's friends, for which he never received any treatment. (C. 293) Pharoah was in special education throughout his time in school. (C. 293) By 11 years old, he belonged to the Mafia Insane Vice Lords gang and smoked five marijuana blunts a day. (C. 293) By 12 years old, he was undergoing treatment for anger management and was diagnosed with bipolar disorder. (C. 293) He was hospitalized in a psychiatric facility at the ages of 12, 13, and 14. (C. 293) At age 15, Pharoah attempted suicide for the first of what would become dozens of attempts. (C. 293) At the time of this offense, he was 16 years old and enrolled at Bowen High School, making it to the ninth grade. (C. 293)

The memo argued, "The constant instability in not only his home life, but at school where he struggled coupled together with an abuse of substances starting at only nine created the perfect storm of corruption for a struggling adolescent. It is these sort of factors that are imperative to examine and consider in the sentencing of the defendant. They are circumstances which were utterly beyond his control and contributed to a predisposition to violent behavior." (C. 294) It argued that Pharoah was only 16 years old at the time of the offense and "his

diminished culpability and greater prospect for reform must be considered in his sentencing. His age and inextricably correlated immaturity are a byproduct of the biological difference between juveniles and adults; mainly, the lack of proper decision making and logical reasoning due to an underdevelopment of the regions of the brain responsible for these processes.” The memo then noted that the legislature now requires courts to consider a juvenile’s impetuosity, level of maturity, and ability to consider risks and consequences, as well whether they were subjected to outside pressure, their home environment, and any history of parental neglect, physical abuse, or other childhood trauma. (C. 294, citing 730 ILCS 5/5-4.5-105(a)(1)-(a)(3)) The memo closed by imploring the court to fully consider the mitigating factors of Pharoah’s youth at the time of the offense, including his home life and community influences, as well as focusing on his potential for rehabilitation. (C. 295)

During the remand proceedings, Judge Sacks requested that the parties prepare a sentencing memo and, in particular, to address whether a court could impose a *de facto* life sentence on a juvenile so long as the defendant has the possibility of parole. (R. 1036, 1054-55) He specifically told the parties to “keep in mind” that under new Illinois legislation, parole was available for those under 21 at the time of the offense, and asked whether this changed *Miller* considerations. (R. 1036) Before the resentencing hearing, the parties presented a joint “Applicable Law” memo. (C. 331-34) That memo informed the court that *Miller v. Alabama*, 567 U.S. 460, 477 (2012), held that juvenile life sentences without the possibility of parole violate the Eighth amendment, and explained that, while *Miller* did not

prohibit all life sentences for juveniles, such sentences were reserved for “the rare juvenile offender whose crime reflects irreparable corruption.” (C. 332), quoting, *Montgomery v. Louisiana*, 577 U.S. 190, 208 (2016). The memo stated that Pharoah was entitled to sentencing under the new juvenile law, 730 ILCS 5/5-4.5-105, which requires consideration of youth-related factors in mitigation before determining sentence and made the firearm enhancements discretionary. (C. 332-33) The memo also cited the juvenile parole law, 730 ILCS 5/5-4.5-115, which provides offenders under 21 years of age at the time of the offense an opportunity to petition for parole after serving 20 years of their sentence. (C. 334)

Throughout the resentencing proceedings, Judge Sacks continued to ask the parties about the possibility of reimposing the same sentence, speculating that the constitutional problem presented in *Miller* no longer applied in light of the new parole legislation. (R. 1034, 1041, 1054-61, 1065-68) Noting the effect of enactment of the parole statute, the judge stated, “In other words. . . he could get the same sentence he got before.” (R. 1056) Defense counsel explained to the judge that the appellate court mandated that the sentencing court consider Pharoah’s youthful nature, which the appellate court had deemed had not been done during Pharoah’s initial sentencing. (R. 1058-59) Judge Sacks responded, “I’m sure I said he was a young guy. What else do I have to say?” (R. 1059) He continued, “The Appellate Court did not say the sentence was wrong. They said I did not consider the fact that he was a young guy. . . So to clarify I’ll say he was 16 instead of a young guy. . . I just think it’s in some respect ridiculous. I said he was a young guy. What else do they want me to say?” (R. 1060)

At the start of the first resentencing hearing date, Judge Sacks again inquired about the statute providing parole opportunities for those under 21 at the time of the offense. (R. 1141) Judge Sacks acknowledged that Pharoah's initial 100-year sentence was a *de facto* life sentence, but concluded that the law did not preclude such a sentence and that the court can consider certain factors. (R. 1143) In that scenario, Judge Sacks concluded, "I could reimpose the same sentence I gave him before, I think." (R. 1143)

The parties stipulated that Pharoah received two convictions for aggravated battery while in the Department of Corrections ("DOC") for which he was sentenced to two concurrent terms of three years, six months of imprisonment. (R. 1129) It was further stipulated that based on a May 2, 2017 DOC report, when Pharoah was 22 years old, indicated that Pharoah was involved in a fight in which he stomped on another inmate's head, that warning shots had to be fired, and the victim was removed by a helicopter for medical treatment. (R. 1130) Finally, it was stipulated that Pharoah had a pending battery case in which Correctional Officer Ruiz would testify that, on February 23, 2019, Pharoah punched him in the face as he was taking him out of his cell. (R. 1132)

Defense counsel argued that, while not diminishing Pharoah's conduct, Judge Sacks needed to consider the *Miller* factors as directed by the appellate court opinion remanding Pharoah's case for resentencing. (R. 1151) The defense discussed Pharoah's troubled childhood, including how his abuse and neglect, the gang influences, mental health issues, and substance abuse occurred at a formative age. (R. 1151-52) The defense asked for a sentence different from the

one originally imposed and requested that the firearm add-ons not be included. (R. 1154)

Prior to imposing sentence, Judge Sacks first noted that the juvenile defendant at the heart of *Miller v. Alabama* had since been resentenced to the identical term of life in prison as initially imposed. (R. 1166-68) He also addressed at length 730 ILCS 5/5-4.5-115, the new under-21 parole legislation and then read the entire statute into the record. (R. 1186-94) Judge Sacks noted that Pharoah, who was 16 at the time of these offenses, could petition for parole after serving 20 years in prison and emphasized that *Miller* and its progeny only prohibited life sentences where there was no possibility for parole. (R. 1170-71, 1186-87, 1195)

Judge Sacks then said that he had considered each of the *Miller* factors codified in 730 ILCS 5/5-4.5-105. (R. 1196) The judge found that, although 16 at the time of the offense, Pharoah was mature, as his prison conduct demonstrated. (R. 1197) He did not find that there was any familial or gang pressure to commit this offense; instead, Pharoah planned and acted alone in this offense. (R. 1197-98) In considering Pharoah's family, home environment, educational, and social background, the judge commented only that Pharoah's mother "did not treat him the best," briefly noting the neglect by his mother and, in relation to Pharoah's reported sexual abuse, stating that there were "women he had to deal with sexually" at his young age. (R. 1197-98) With regard to rehabilitation, the judge found that Pharoah "hasn't shown it so far." (R. 1197) The judge commented on Pharoah's substance abuse by stating that vodka and Hennessy, which Pharoah began drinking at age nine, was "strong stuff" and, referring to the fact that Pharoah started

smoking marijuana at age 11 and was smoking five blunts a day, said that Pharoah “... smoked a joint now and then.” (R. 1184) In considering Pharoah’s psychological treatment, which began at the age of 12, the judge remarked, “saw a psychiatrist till the age of 12... when his mother took him to address, I love this, anger management issues. Anger management.” (R. 1183) Referring to Pharoah’s numerous suicide attempts, the judge commented that “there’s no real proof that occurred other than Pharoah Morris saying so.” (R. 1184) The judge reacted to Pharoah’s depression by stating, “Well, who wouldn’t be depressed being in the county jail or in the penitentiary serving a lot of time? Anybody would be depressed under those circumstances.” (R. 1183-84) Judge Sacks specifically referenced the offenses Pharoah had committed in early adulthood while in custody, reasoning that someone who knew that they had an opportunity for resentencing would attempt to rehabilitate. (R. 1197) The judge added that the parole statute would provide Pharoah incentive for rehabilitation. (R. 1198)

As the hearing concluded, Judge Sacks stated that, because Pharoah had committed crimes after the murder in this case, including offenses while in the penitentiary, “the sentence will not be any less and it certainly under the law it cannot be any more.” (R. 1202) The judge again remarked that the chance to obtain parole meant the sentence would not violate *Miller* at all but possible release would be up to the Prisoner Review Board. (R. 1202) After again commenting that the under-21 parole statute “was the best thing in the world that ever happened to Pharoah Morris,” the judge announced that he “will impose the sentence it did before” and again sentenced Pharoah to a term of 55 years for first degree murder

followed by a 45 year sentence for attempted murder. (R. 1203)

Direct appeal after resentencing

On appeal following resentencing, Pharoah argued that the trial court’s reimposition of a 100-year sentence: (1) was an unconstitutional *de facto* life sentence in violation of the Eighth Amendment, imposed without the then-required finding that Pharoah was permanently incorrigible and (2) violated the Eighth Amendment and Illinois law where the trial judge failed to properly consider the youth-based statutory factors as outlined by *Miller* and codified by 730 ILCS 5/5-4.5-105. (Deft. App. Br. 22-39)¹ Pharoah also requested that the case be assigned to a new judge on remand, arguing that Judge Sacks had his mind made up to reimpose the same sentence and that remand to the same judge would yield the same result despite any evidence presented in mitigation. (Deft. App. Br. 38-39) Thus, Pharoah argued, remand to a different judge would “[remove] any suggestion of unfairness from the new sentencing.” (Deft. App. Br. 38-39)

The appellate court first addressed Pharoah’s Eighth Amendment claim, holding that it did not apply because the firearm enhancements initially imposed on Pharoah were now discretionary. *People v. Morris*, 2023 IL App (1st) 220035, at ¶ 55, citing *People v. Wilson*, 20223 IL 127666, ¶ 44 (holding that *Miller* does not apply to discretionary life sentences). However, the court agreed that Judge Sacks abused his discretion where he was “predisposed to impose the same sentence on remand” and, as such, employed a “results-driven approach” not contemplated

¹ On August 31, 2026, appellate counsel requested that the clerk of the First District Appellate Court transmit certified copies of the appellate briefs to this Court.

by the statute. *Morris*, 2023 IL App (1st) 220035, at ¶¶58, 63. The court ultimately held that Judge Sacks failed to fairly consider the statutory youth-based sentencing factors or the full range of sentences now available under new sentencing scheme for offenses committed by juveniles. *Id.*, at ¶4. The appellate court therefore vacated Pharoah’s sentence and remanded for resentencing with directions to assign the case to a different judge “to ensure that both [Pharoah] 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.” *Id.*, at ¶¶64, 66.

ARGUMENT

- I. The trial judge abused his discretion where the imposition of an identical 100-year sentence on Pharoah Morris, a 16-year-old offender, at resentencing was based on the judge's predisposition to impose the same sentence, a mistaken belief that the youth sentencing factors in 730 ILCS 5/5-4.5-105 do not apply to murder, and disregard of the appellate court's mandate to consider these youth sentencing factors.**

After Pharoah Morris received an aggregate term of 100 years in prison for first degree murder and attempt first degree murder committed when he was 16 years old, the appellate court remanded his case for resentencing under 730 ILCS 5/5-4.5-105, which codified the youth-based sentencing factors first enumerated in *Miller v. Alabama*, 567 U.S. 460 (2012). The resentencing, however, was a mere formality, as the record shows that Judge Sacks was determined to impose the same 100-year sentence before he had even heard evidence in aggravation and mitigation. Judge Sacks expressed frustration with the appellate court's mandate and repeatedly asked the parties whether he could reimpose the same sentence in light of the recent passage of the Illinois parole statute. During the resentencing hearing, Judge Sacks denigrated the youth sentencing factors, discounting much of Pharoah's significant mitigation evidence, including sexual and physical abuse Pharoah suffered as a child, severe mental health issues, and substance abuse, and expressed the belief that none of the juvenile sentencing factors could mitigate a murder. Because Judge Sacks prejudged the case and paid only lip service to the youth-based sentencing factors, this Court should affirm the appellate court's decision remanding for another sentencing hearing before a different judge.

The State argues that the appellate court's ruling, vacating Pharoah's 100-

year sentence and remanding for resentencing before a different judge, should be reversed because the appellate court did not find that the imposed sentence was unconstitutional or an abuse of discretion. (St. Br. 15) The State contends that the appellate court disagreed with the trial judge's reasoning and the weight he assigned to the youth-related factors, and thereby improperly substituted its judgment for that of the trial judge. (St. Br. 16, 19) It argues that the appellate court did not find any substantive error in Pharoah's sentence and, in particular, did not find that Pharoah's 55-year and 45-year sentences were disproportionate to the offenses of murder and attempted murder. (St. Br. 18) Thus, the appellate court was not justified in vacating Pharoah's sentence because he failed to show that the trial judge abused his discretion or that the judge was biased. (St. Br. 20-27) Finally, the State argues that the appellate court exceeded its authority by ordering a substitution of judge on remand. (St. Br. 27)

The State's contentions are not supported by the record or the law. First, the appellate court found that "the record as a whole" demonstrated the sentencing judge's preoccupation with whether he could simply reimpose the same 100-year sentence on remand and held that, in so doing, the judge acted arbitrarily and ultimately abused his discretion. *People v. Morris*, 2023 IL App (1st) 220035, ¶¶60, 63, citing *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). Secondly, the appellate court found that the trial judge improperly "viewed 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.’” *Morris*, 2023 IL App (1st) 220035, at ¶63. The court continued, “[t]his result-driven approach is not what the statute contemplates and was an abuse of discretion.” *Id.* Thus, not only did the appellate court specifically identify that the sentencing judge abused his discretion when he was “preoccupied” with whether he “could simply reimpose the same 100-year sentence on remand,” the judge further abused his discretion when he did not consider the youth-related mitigating factors enumerated in 730 ILCS 5/5-4.5-105 at all, as he had already predetermined the results. *Id.* Contrary to the State’s assertions, at no point did the appellate court hold that it would have weighed the factors differently than the sentencing judge. Rather, the appellate court was clear that the sentencing judge’s predetermined result and subsequent failure to weigh the factors as required constituted an abuse of discretion. *Id.*

Lastly, the State accurately notes that Pharoah did not make the additional argument that the trial judge was biased and that the appellate court likewise did not make such a finding. However, the State’s entire argument on this matter is unnecessary where, contrary to the State’s assertions, Pharoah did indeed argue that the trial judge abused his discretion and expressly sought a new judge on remand, and the appellate court thereafter agreed, holding that the judge’s reimposition of the identical 100-year sentence without actual consideration of the youth-based statutory sentencing factors was an abuse of discretion. However, while a finding of bias was unnecessary, the record would nevertheless support an ancillary holding of bias.

Here, the record is clear that the trial judge abused his discretion by predetermining that he would impose the same 100-year sentence on remand without actually applying or considering the youth-based sentencing factors in 730 ILCS 5/5-4.5-105. In so doing, the trial judge failed to adhere to the appellate court's mandate, and Pharoah's sentence should again be vacated and his case remanded for resentencing in accordance with 730 ILCS 5/5-4.5-105.

A. Standard of Review

The trial court is vested with considerable discretion in imposing a sentence, and a sentence consequently will not be modified on appeal in the absence of an abuse of that discretion. *People v. Perruquet*, 68 Ill.2d 149, 153 (1977). Although the trial court is vested with wide discretion in sentencing, such discretion is not without limitation. *People v. Stacey*, 193 Ill. 2d 203, 208 (2000). A sentence within statutory limits will be deemed the result of an abuse of discretion by the trial court where the sentence is greatly at variance with the spirit and purpose of the law, or manifestly disproportionate to the nature of the offense. *Id.* at 210. An abuse of discretion or a failure to exercise discretion also occurs when a sentencing judge imposes a sentence in an arbitrary manner. *Bolyard*, 61 Ill. 2d at 586-87. In addition, a sentencing court is required to consider statutory mitigating factors and the failure to do so is an abuse of discretion. *People v. Miller*, 2021 IL App (2d) 190093, ¶22; see 730 ILCS 5/5-4.5-105(a) ("the court *** *shall* consider the following additional factors in mitigation") (emphasis added). Finally, a sentencing court's failure to engage in a reasonable application of the *Miller* factors is an abuse of discretion and a departure from the purpose and spirit of 730 ILCS 5/5-4.5-

105. *People v. McKinley*, 2024 IL App (1st) 221172, ¶¶108-110.

B. The appellate court correctly held that the trial judge abused his discretion where he was predisposed to impose the same sentence on remand.

As an initial matter, the State’s contention that Pharoah’s claim that the trial judge abused his discretion at sentencing is forfeited because he did not raise this issue on appeal is incorrect: the issue was specifically raised in Pharoah’s appellate opening brief. (St. Br. 24; Deft. App. Br., pg. 21) Pharoah further argued that the trial judge violated Illinois law where he did not properly consider the youth-related mitigating factors when sentencing juvenile offenders and as required under 730 ILCS 5/5-4.5-105(a). (Deft. App. Br., pg. 26-37) Moreover, this Court may affirm the appellate court’s holding on any basis supported by the record. *City of Champaign v. Torres*, 214 Ill. 2d 234, 241 (2005); see also, *People v. Durr*, 215 Ill.2d 283, 296 (2005) (holding that, in determining the correctness of result reached by the Appellate Court, the Supreme Court is “in no way constrained by the Appellate Court’s reasoning and may affirm on any basis supported by the record”). The record here amply supports the appellate court’s decision.

Here, the appellate court properly held that the trial judge abused his discretion in resentencing Pharoah to an identical term of 100 years in prison where “the record as a whole” shows that the judge was “predisposed” to impose the same sentence on remand. *Morris*, 2023 IL App (1st) 220035, at ¶¶58-63. Indeed, starting from Pharoah’s initial sentencing hearing, the record is clear that Judge Sacks did not consider any of the evidence presented to him, including any evidence related to Pharoah’s youth, to be mitigating. This opinion did not change upon

remand nor upon specific direction to consider the youth-based factors as enumerated in section 5-4.5-105.

At Pharoah's original sentencing in 2014, Pharoah's presentence investigation (PSI) report indicated, *inter alia*, that he had an incarcerated father, a history of alcohol and drug use starting a very early age, a bipolar disorder diagnosis, and multiple suicide attempts. (CI. 280-89) Judge Sacks acknowledged reviewing the PSI, but in considering the factors in aggravation and mitigation Judge Sacks stated, "What's mitigating about Pharoah Morris? Not much. At the time of the murder, 16 years old, that's about all that is mitigating." (R. 651) Based on these statements, on direct appeal, the appellate court was "not convinced" that Judge Sacks "adequately" considered Pharoah's youth and attendant characteristics under *Miller*. *People v. Morris*, 2017 IL App (1st) 141117, ¶¶30-32. Nor did the appellate court find those observations to be the equivalent of "full consideration" of the special characteristics relevant to youth that were contained within the PSI. *Id.* Accordingly, the court vacated Pharoah's sentence and remanded for resentencing under 730 ILCS 5/5-4.5-105, requiring the sentencing judge to consider these youth mitigation factors. *Id.*, at ¶¶30-32.

On remand, Judge Sacks immediately began asking if Pharoah's parole eligibility could allow him to impose a *de facto* life sentence without considering Pharoah's youth as mandated by *Miller* and its progeny. Judge Sacks repeatedly asked both parties whether he could reimpose the same sentence in light of Illinois recent passage of a parole statute for offenders under 21 years old. (R. 1036, 1056, 1058, 1059); 730 ILCS 5/5-4.5-115 (eff. Jan. 1, 2020). During scheduling conferences

prior to resentencing, he requested that the parties prepare a sentencing memo, specifically instructing them to address whether a court could impose a *de facto* life sentence on a juvenile so long as the defendant has the possibility of parole. (R. 1036, 1054-55)

Judge Sacks also made statements suggesting that he believed his original 100-year sentence to be proper and showed frustration with the appellate court's directive that he now, on remand, consider Pharoah's youthful characteristics. The judge commented, "The Appellate Court did not say the sentence was wrong. They said I did not consider the fact that he was a young guy. I may not have mentioned his age, so if I didn't say he was 16 at the time I said he was a young guy. So to clarify I'll say he was 16 instead of a young guy." (R. 1059-60) He continued, expressing dissatisfaction with the appellate court, "I just think it's in some respect ridiculous. I said he was a young guy. What else do they want me to say? . . . A young guy is a young guy." (R. 1060) Thus, the record shows that Judge Sacks did not perceive any constitutional error in his initial sentencing of Pharoah beyond merely failing to state more clearly that he had considered Pharoah's chronological age at the time of the offense.

Contrary to the sentencing judge's belief, sentences imposed on juvenile defendants require far more than simply acknowledging the defendant's young age. Indeed, as first laid out in the watershed case of *Miller v. Alabama*, and later codified in 730 ILCS 5/5-4.5-105, sentencing courts must consider a list of specific factors related to youth and identified as mitigating when sentencing juvenile offenders. See 730 ILCS 5/5-4.5-105(a); *People v. Buffer*, 2019 IL 122327, ¶ 36

(“This list is taken from and is consistent with *Miller’s* discussion of a juvenile defendant’s youth and its attendant characteristics”).

Moreover, the judge’s comments during the sentencing hearing displayed that he was not merely interested in whether he could impose another *de facto* life sentence on Pharoah, he was fixated on imposing the *same* sentence. On one occasion, after expressing that the law did not preclude the imposition of a life sentence, Judge Sacks added, “There are certain considerations the Court *can* take into consideration, certain factors. I could reimpose the sentence I gave him before, I think.” (R. 1143) (emphasis added) After the State urged the judge to impose an “appropriate” sentence, Judge Sacks asked the State, “[D]o your thoughts . . . allow the Court . . . 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 wouldn’t, but do you think I could?” (R. 1149) The judge even characterized the issue before him on resentencing as “whether or not Pharoah Morris’s [sentence of] a hundred years for the murder of the victim and attempt murder of his friend should be allowed to stand.” (R. 1168)

Notably, the State had not asked for any specific sentence nor had defense counsel yet had the opportunity to make any arguments. The judge’s comments communicated his intent to impose the same sentence upon Pharoah, even prior to hearing any potentially mitigating evidence. Indeed, Judge Sacks explained that he believed that the appellate court, in remanding Pharoah’s case for resentencing, was “basically saying. . . yeah, you can give him a hundred years,

but think it over and see what you think.” (R. 1159) Finally, after reading nearly the entire parole statute into the record, Judge Sacks stated that the statute gave Pharoah a meaningful chance of being released from prison and that, whether Pharoah should get out was “not up to me” but rather, “up to the Prison[er] Review Board at some point down the road.” (R. 1155)

Accordingly, as found by the appellate court, 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. *Morris*, 2023 IL App (1st) 220035, at ¶63; *see People v. Ward*, 113 Ill. 2d 516, 527 (1986) (“The determination of whether or not the sentence was improper must be made by considering the entire record as a whole”)(citations omitted). Judge Sacks telegraphed his intent to use the parole statute as an excuse to disregard the youth-based sentencing factors as he repeatedly asked about imposing the same sentence before he had heard any evidence in mitigation. The judge communicated this interest long before he even heard any potential mitigation evidence. (R. 1036, 1056-60)

But the parole statute did not eliminate the requirement for a sentencing hearing where the judge must consider all of the evidence, including the youth-based mitigation, before imposing a sentence. After all, had the legislature intended to exempt certain offenses from 730 ILCS 5/5-4.5-105(a), it would have done so. *See People v. Evans*, 2026 IL App (1st) 241368, ¶85 (“Section 5-4.5-105(a) reflects and codifies *Miller’s* insights on youth and its attendant circumstances without regard to offense type or sentence length”). In short, the sentencing hearing on

remand was a sham: the judge had long before decided what sentence he would impose, even though at the time he had not yet received sentencing evidence or heard any argument in mitigation. A defendant is entitled to a fair hearing with an open minded judge and prejudging an issue is the antithesis of fairness. *People v. Heiman*, 286 Ill. App. 3d 102, 113 (1st Dist. 1996); U.S. Const., amends. IV, XIV; Ill. Const. 1970, art. I, § 2.

In support of its holding, the appellate court relied on *People v. Bolyard*, 61 Ill. 2d 583 (1975), where this Court has held that it is an abuse of discretion for a sentencing judge to impose sentence in an arbitrary manner. *Morris*, 2023 IL App (1st) 220035, at ¶60, citing *Bolyard*, 61 Ill. 2d at 586-87. In *Bolyard*, the trial court expressed its personal policy that crimes involving physical or sexual violence were not probationable and denied the defendant's request for probation. *Bolyard*, 61 Ill. 2d at 585-86. This Court found that the defendant was entitled to a new sentencing hearing, as "the trial judge arbitrarily denied probation because [the] defendant fell within the trial judge's category of disfavored offenders." *Id.* at 587. *Bolyard* further found that the trial judge's refusal to exercise his sentencing discretion was specifically shown by his statement at the sentencing hearing that the type of crime involved in that case was never proper for a sentence of probation. *Id.*

Likewise, here, Judge Sacks's refusal to exercise his sentencing discretion was shown throughout the resentencing process. Whereas in *Bolyard*, this Court found only a single comment from the judge during sentencing expressing his arbitrary belief that perpetrators of sex crimes should not be probationable, Judge

Sacks raised the question of whether he could reimpose the identical 100-year sentence “before, during, and after the resentencing hearing.” *Morris*, 2023 IL App (1st) 220035, at ¶¶62-63; (R. 1036, 1056-60, 1143,1149,1207) Thus, as was the case in *Bolyard* where the judge refused to consider the full sentencing range, it was an abuse of discretion for Judge Sacks to arbitrarily refuse to consider any sentence other than the one he had originally imposed.

Similarly, lower courts have consistently remanded for new sentencing hearings where a sentencing judge shows that he had predetermined a defendant’s sentence prior to considering the relevant statutory factors. *See People v. Zemke*, 159 Ill. App 3d 624, 629 (2d Dist. 1987) (concluding the trial court abused its discretion when it refused to consider anything other than the maximum possible sentence); *People v. Coleman*, 212 Ill. App. 3d 997, 1004 (1st Dist. 1991) (concluding the trial court abused its discretion by predetermining the defendant’s sentence before “considering any of the factors mandated in the sentencing statute”); *People v. Kendrick*, 104 Ill. App. 3d 426, 435-36 (1st Dist. 1982) (concluding the trial court abused its discretion by determining the defendant deserved a prison sentence “even before the sentencing hearing began”).

Like the trial judge in *Bolyard*, Judge Sacks made known his predisposition to impose the identical sentence *before* Pharoah’s sentencing hearing, and then followed through on that promise after the sentencing hearing occurred. (R. 1056, 1059, 1203) This Court should find, like the appellate court, that Judge Sacks abused his discretion by predetermining Pharoah’s sentence before considering any of mitigation evidence and the youth-related factors as presented at the

resentencing hearing.

C. The trial judge abused his discretion where he did not apply the youth-related sentencing factors as required by 730 ILCS 5/5-4.5-105(a) and as specifically directed by the appellate court’s mandate.

Following Pharoah’s direct appeal, the First District Appellate Court vacated his sentence and remanded for re-sentencing and specifically directed that Pharoah be sentenced in accordance with the youth-related sentencing factors as codified in 730 ILCS 5/5-4.5-105. *Morris*, 2017 IL App (1st) 141117, at ¶¶35, 44. This sentencing statute expressly requires courts to consider a list of mitigating factors related to youth when sentencing juvenile offenders. 730 ILCS 5/5-4.5-105 (West 2022) (“the court *** *shall* consider the following additional factors in *mitigation*”) (emphases added). However, Judge Sacks made it abundantly clear that, not only did he believe he could simply reimpose the same 100-year sentence, he did not believe that he had to *actually* consider the youth-related statutory factors. (R. 1143) (“There are certain considerations the Court *can* take into consideration, certain factors. I could reimpose the sentence I gave him before, I think”) (emphasis added); (R. 1169) (“There’s certain issues you have to deal with in order to make a life sentence work as far as sentence but the case law does not preclude that possibility”).

Although Judge Sacks paid lip service to consideration of the juvenile factors, his words were betrayed by his dismissive and belittling comments about those factors throughout the sentencing hearing. *See People v. Woodson*, 2024 IL App (1st) 221172, ¶¶ 109 -110 (sentencing judge’s comments and general tone, when viewed in total, demonstrated a failure to engage in a reasonable application of

the *Miller* factors). Indeed, the reason for Judge Sacks’s disregard for a proper application of the factors became clear when he expressed his erroneous belief that the juvenile sentencing factors “[do not] justify, or even excuse... or mitigate murder.” (R. 1186); *Evans*, 2026 IL App (1st) 241368, at ¶85 (“Section 5-4.5-105(a) reflects and codifies *Miller*’s insights on youth and its attendant circumstances *without regard to offense type or sentence length*”) (emphasis added); *McKinley*, 2020 IL App (1st) 191907, at ¶58 (“As noted in *Miller*, the distinctive attributes of youth diminish the penological justification for imposing the harshest sentences on juvenile offenders, *even when they commit terrible crimes*”) (emphasis added), citing *Miller*, 567 U.S. at 472. In short, Pharoah was denied true consideration of the mandated youth-related sentencing factors, and this Court should affirm the appellate court’s holding that the sentencing judge abused his discretion.

The language of the Code of Corrections is mandatory, and a trial court may not refuse to consider the youth-related sentencing factors codified in 730 ILCS 5/5-4.5-105(a); *Buffer*, 2019 IL 122327, at ¶36 (“Before *any* sentence is imposed, subsection (a) requires the sentencing court to consider “additional factors in mitigation in determining the appropriate sentence”)(emphasis in original); *see also Evans*, 2026 IL App. (1st) 2411368, at ¶55 (statute specifies qualities a sentencing court *must* consider before imposing a sentence on a juvenile defendant). Nor may a sentencing judge ignore section 5-4.5-105(a)’s specific identification of those factors as *mitigating*. *McKinley*, 2020 IL App (1st) 191907, at ¶ 88 (judge could not find peer pressure role irrelevant because statute expressly listed that as a mitigating, not aggravating factor).

Support that Judge Sacks only simulated consideration of the youth-based factors is found in the numerous belittling, dismissive, and even sarcastic comments made as he discussed some of these factors. *See Woodson*, 2024 IL App (1st) 221172, at ¶107 (holding that Judge Sacks’s questions and comments provided evidence of the judge’s abuse of discretion and failure to reasonably apply the youth-based sentencing factors). For instance, the first statutory mitigation factor requires the court to consider “[t]he 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, if any. . . .” 730 ILCS 5/5-4.5-105(a)(1). Pharoah was only 16 years old at the time of the offense but rather than consider the attributes accompanying youth, the trial court here noted that, “for a 16 year old, [Pharoah] was quite mature” explaining that his maturity was shown by his conduct while in jail, alluding to the fact that Pharoah sought to have witnesses in his case killed. (R. 1170) The judge likewise rejected the notion of youthful impetuosity, noting that Pharoah’s planning showed “conscientious thought.” (R. 1197)

As the *Miller* Court stated, “[The] transient rashness, proclivity for risk, and inability to assess consequences – both lessen[] a child’s moral culpability and enhance[] the prospect that, as the years go by and neurological development occurs, his deficiencies will be reformed.” *Miller*, 467 U.S. at 472 (citations and quotation marks omitted). Pharoah’s misguided attempt to eliminate the witnesses in his case – a clearly poorly thought out request to an undercover police officer and fellow inmate – is the height of immaturity and impetuosity. (CI. 160-63)

It encapsulates the type of rash and risky behavior to which juveniles are especially prone, as adolescents are the most likely group of individuals to engage in risky and reckless behavior *because* of their immaturity and failure to recognize risks and consequences, which limits their ability to make sound judgments. *See Miller*, 467 U.S. at 471-73 (discussing the detailed analyses of the effects of juvenile brain development on culpability). The judge’s statements reveal either a complete misapprehension of precisely how to consider the effects of youth on one’s ability to make mature and thoughtful choices or, as found by the appellate court, an actual lack of consideration of the youth-based factors at all. *See Woodson*, 2024 IL App (1st) 221172, at ¶ 92 (noting that impetuosity is “broader” than simple consideration of whether an offense was planned).

The trial judge’s dismissal of the second factor – whether the juvenile was subjected to outside pressure, including peer pressure, familial pressure, or negative influences – is similarly apparent, as it glosses over the very likely negative influence both gangs and an abusive home life had on Pharoah’s behavior. With respect to gangs, the trial judge noted only that, “while it was true” that Pharoah was in a gang, he did not find that Pharoah was influenced “one way or the other.” (R. 1197) Although this offense did not appear to have been gang-related, the judge’s rejection of the influence that gangs had on Pharoah’s deviant behavior is absurd given that Pharoah joined a gang at the age of 11. (C. 293) As explained in *Miller*: “exposure to deviant peers leads to increased deviant behavior” 567 U.S. at 472. As recognized by this Court in *Buffer*, “juveniles are more vulnerable to negative influences and outside pressures” than adults, are particularly susceptible to peer

pressure, and “lack the ability to extricate themselves from crime-producing settings.” *Buffer*, 2019 IL 122327, at ¶16 (citing *Miller*, 567 U.S. at 471). To conclude that Pharoah’s gang membership, especially given its inception at age 11, played no role in his teenage behavior contravened this basic principle.

The third statutory factor required Judge Sacks to consider Pharoah’s family, home environment, educational and social background, including any history of parental neglect, physical abuse, or other childhood trauma. (R. 1197-98) Pharoah’s childhood was marred by neglect and trauma. (C. 292-95, CI. 325-30) Pharoah’s father was never present in his life and, instead, was incarcerated in Wisconsin. (C. 293) His mother, Yolanda, frequently beat Pharoah, and at the time of resentencing, Yolanda faced charges for attempting to murder Pharoah’s brother, Ramsey. (R. 923) In addition to beatings, Pharoah also suffered sexual abuse at the hands of some of Yolanda’s female friends. (C. 293)

In response to this factor, Judge Sacks commented only that Pharoah’s mother “is not the best” and “didn’t treat him the best.” (R. 1186, 1197) In discussing how Yolanda “wasn’t the best mother” to Pharoah, Judge Sacks dismissed entirely the effect her abuse had on his behavior, instead, scoffing that “[It’s] his own treatment of others that put him here today. His mother didn’t help much. I’ll give her that much but that’s not the cause solely of why he’s here today.” (R. 1181)

Even worse, the judge had no response to the fact that Pharoah reported repeated sexual abuse at the hands of his mother’s friends other than minimizing that abuse as “women he had to deal with sexually” and callously stating, “[S]elf reported,” thereby not only belittling the trauma Pharoah suffered as a child but

suggesting that Pharoah’s sexual abuse was entirely made up. (R. 1181, 1197-98) Yet as this Court has noted, “Commentators have recognized that, aside from any physical injury a child may suffer in a sexual assault, children who are sexually assaulted are subject to chronic *psychological* problems that may be even more pernicious.” *People v. Huddleston*, 212 Ill. 2d 107, 134-36 (2004) (emphases in original) (detailing lasting psychological effects of sexual abuse on child victims).

These flippant and cruel responses hardly display true consideration of the fact that Pharoah was repeatedly physically abused by his mother (who later was charged with attempting to murder his brother), and whose family friends sexually abused Pharoah. (C. 293; R. 923) Nevertheless, Judge Sacks failed to see any effect that Pharoah’s upbringing had on his behavior, stating only that there was “[n]o pressure on her part to go out and kill somebody.” (R. 1197) The judge’s comments again show a lack of consideration of the youth-based factors as required by the statute and the appellate court’s mandate. *See also Evans*, 2026 IL App (1st) 241368, at ¶¶76-77 (record did not show that the court considered how the defendant’s “many traumas” impacted his brain development).

Judge Sacks also gave no consideration to Pharoah’s mental health and substance abuse history. The record established that Pharoah was placed in special education and that he was first taken to see a psychiatrist when he was 12 years old due to his anger management issues. (C. 329) He was diagnosed with depression and bipolar disorder and hospitalized in a psychiatric facility at ages 12, 13, and 14. (C. 293) At age 15, Pharoah attempted suicide for the first of what would become dozens of times. (C. 293) The trial judge’s response to Pharoah’s psychological

medical history was to say, flippantly, that Pharoah's treatment for anger management "clearly didn't help any." (R. 1183) After noting that Pharoah suffered from bipolar disorder and depression, the judge commented, "Well, who wouldn't be depressed being in the county jail or in the penitentiary serving a lot of time? Anybody would be depressed." (R. 1183) And in a particularly callous moment, when considering Pharoah's numerous suicide attempts, Judge Sacks commented that "there's no real proof that occurred other than Pharoah Morris saying so." (R. 1184) And as to Pharoah's start to abusing alcohol at the age of 9 and marijuana at 11, the judge said only, "First used alcohol when he was 9. Vodka and Hennessy. Wow. That's strong stuff. Vodka and Hennessy at age 9" and "Smoked marijuana at the age of 11. Five blunts a day. So he smoked a joint now and then." (R. 1184) These comments make clear that, while the judge may have feigned consideration of the youth-related factors, it is belied by his glib responses to evidence of Pharoah's tragically extensive mental health and substance abuse problems, factors that *Miller* and the General Assembly identified as bearing on youthful culpability and rehabilitative potential. Indeed, Judge Sacks's belittling comments support the appellate court's determination that the judge utilized a "results-driven approach" which truly did not take any mitigation evidence into account.

Critically, Judge Sacks confirmed that he did not actually apply the sentencing factors when he expressed his belief that, contrary to *Miller*, the youth-related characteristics did not mitigate a murder offense in any way. Immediately prior to reading the parole statute into the record, Judge Sacks stated:

"He didn't come up the best. I'll give him that much. However, I cannot justify murder however. A lot of guys come up in situations not the

best. Their father is not around. He's in prison somewhere. His mother is not the greatest. Stuff like that. **It doesn't justify or even excuse murder as a matter of fact or mitigate murder** I should say. I've certainly considered those things."

(R. 1186) (emphasis added). And after pronouncing sentence, the judge stated, "I never had a case where someone – so the guy's not dead because the guy who shot him was only 16." (R. 1206)

The judge's comments displayed a complete rejection of principles established in *Miller*, 567 U.S. 460, and codified in section 5-4.5-105(a). More importantly, Judge Sacks was plain wrong. Illinois courts recognize that "*Miller* identified several core principles: (i) juveniles have transient qualities that mitigate their crime, (ii) *these traits are not 'crime-specific,'* and (iii) the development of a juvenile *must* be considered a 'relevant mitigating factor of great weight.'" *Evans*, 2026 IL App (1st) 241368, at ¶86, quoting, *Miller*, 567 U.S. at 473 (emphasis added). And further, "the General Assembly incorporated them comprehensively so they would inform section 5-4.5-105(a)'s many factors in mitigation, *again without regard to offense or sentence.*" *Evans*, 2026 IL App (1st) 241368, at ¶ 86 (emphasis added), citing *People v. Reyes*, 2025 IL App (2d) 210423-B, ¶41. Here, Judge Sacks's comment that he did not believe the *Miller* factors codified by section 5-4.5-105(a) mitigate murder offenses alone demonstrated that he simply did not apply the mitigating factors to Pharoah's case.

Moreover, as discussed, this failure is undeniable when considered in the context of Judge Sacks's dismissive comments and disparaging tone throughout the sentencing process. Indeed, the judge's tone was set early when, inquiring about Pharoah's potential sentencing range, he quipped, "I forget, was it only

100 years only? ... That's all?... That's all. Just kidding, Mr. Morris, at your expense for the time being. It's a lot of time but I was just joking a bit.” (R. 1114); *See, Woodson*, 2024 IL App (1st) 221172, at ¶¶108-110 (holding that Judge Sacks's comments and general tone provided additional evidence of abuse of discretion for failure to reasonably apply the youth-related sentencing factors).

A trial court has no power to set aside, ignore, or deviate from the directions in a reviewing court's mandate. *See People v. Brown*, 2022 IL 127201, ¶ 22. Where the cause is remanded by a reviewing court “with specific directions, the court below has no discretion, but must pursue the mandate” of the court. *Id.* After Pharoah's first sentencing hearing, the First District Appellate Court vacated Pharoah's sentence and specifically remanded for re-sentencing in accordance with consideration of the *Miller* factors as codified in 730 ILCS 5/5-4.5-105. *Morris*, 2017 IL App (1st) 141117, at ¶35. Here, Judge Sacks's clear refusal to consider the youth-related mitigating factors in this case also directly contravened the appellate court's mandate.

The State acknowledges that the appellate court vacated Pharoah's sentence because it found the trial judge viewed the viewed the youth-based sentencing factors as issues to be dealt with in order to impose a life sentence and not as considerations to assist in choosing from the range of possible sentences. (St. Br. 19) However, it wrongly argues that the appellate court disagreed with the *weight* that the trial court assigned to the youth-related factors. (St. Br. 16, 19) To the contrary, the appellate court at no point expressed its opinion about the appropriate weight for any of the youth-related factors. Nor did the appellate court find that

the trial court weighed the factors incorrectly. Rather, the appellate court made clear that Judge Sacks abused his discretion because he did not weigh the factors *at all* and instead had a “results-driven approach” which prevented the court from “remaining open to all possible sentences.” *Morris*, 2023 IL (1st) 220035, at ¶63.

Thus, the State’s reliance on cases such as *People v. Anderson*, 2024 IL App (1st) 220864, *People v. Kendrick*, 2023 IL App (1st) 200127, and *People v. Elliott*, 2022 IL App (1st) 192294, for the proposition that an appellate court may not vacate a defendant’s sentence merely because it would have weighed the youth-based factors *differently* is misplaced. (St. Br. 19) The State’s assertion misses altogether that, in this case, Judge Sacks’s statements show that he did not actually weigh the factors at all because he never truly considered imposing any other sentence and did not believe juvenile mitigation should apply to murder cases. While the State is correct that it is generally not error for a sentencing court to reference its prior sentencing decision nor is it error to consider the availability of parole, the judge’s statements here went far beyond mere reference to its prior sentence or the possibility of parole. (St. Br. 19), citing *Anderson*, 2024 IL App (1st) 220864, at ¶25. Starting from the judge’s expressed frustration with the appellate court’s remand (“I just think it’s in some respect ridiculous. I said he was a young guy. What else do they want me to say?) to his fixation on the parole statute allowing him to impose the same sentence (“In other words, he could get the same sentence he got before”) and his belief that youthful mitigation did not apply to murder offenses (“It doesn’t justify or even excuse murder ... or mitigate murder”), the record as a whole established, as found by the appellate court, that Judge Sacks

had predetermined that he would impose the same sentence and, as such, did not truly consider the youth-related factors. *Morris*, 2023 IL App (1st) 220035, at ¶63. (R. 1056, 1058-60,1186)

The State also argues that the trial judge did not abuse his discretion at sentencing where the seriousness of the offense warranted the severe sentence. (St. Br. 24-26) The State’s argument ignores that, regardless of the seriousness of the offense, the trial judge had already made known his intent to impose the same sentence. Moreover, the seriousness of the offense did not eliminate the requirement to consider the statutory youth-based mitigation factors – otherwise, section 5-4.5-105(a) would contain such language. While the offense was serious and tragic, the sentencing judge was nevertheless still obligated to consider a sentence in light of these youth-related factors. *McKinley*, 2020 IL App (1st) 191907, at ¶58. The sentencing judge could not consider the seriousness of the offense without also considering any youthful mitigation.

Noticeably, while Judge Sacks was dismissive of the statutory mitigating factors, he displayed particular consideration of Pharoah’s potential for rehabilitation, specifically detailing the offenses Pharoah committed while in custody for this case. (R. 1176-77) In reference to rehabilitation, Judge Sacks found that Pharoah “hasn’t shown it so far” and reasoned that someone who knew that they had an opportunity for resentencing would attempt to rehabilitate. (R. 1197) However, Judge Sacks’s finding that Pharoah had yet to show rehabilitation cannot justify the judge’s reimposition of the same 100-year sentence where the record shows that he did not also duly consider *all* of the statutory youth-based factors

nor did he believe that the factors could mitigate a murder offense. Indeed, while trial courts have the discretion to sentence a juvenile defendant to life in prison, courts may *only* do so after considering the defendant's youth and related characteristics. *People v. Lusby*, 2020 IL 124046, ¶33. Here, the totality of the circumstances do not show that such consideration took place. *Id.*, at ¶35 (courts look to the "totality of the circumstances" to determine whether the sentencing court considered evidence and argument relating to the *Miller* factors before concluding a life sentence was appropriate).

While Judge Sacks may have hollowly expressed his consideration of the youth-related factors and the seriousness of the offense, his comments starting from the very first hearings on remand through resentencing displayed his belief that the juvenile factors should not be applied in a murder case and signaled his intent to impose the same 100-year sentence without true consideration of 730 ILCS 5/5-4.5-105(a) (2020), in contravention of the statute and the appellate court's mandate. *See People v. Zumot*, 2021 IL App (1st) 191743, ¶40 ("[B]eing aware of evidence relevant to the *Miller* factors is wholly distinct from considering those factors as mitigating or carefully considering the prospect of a defendant's rehabilitative potential"). This Court should affirm the appellate court's holding and remand for resentencing where the trial judge expressed a fixation on reimposing the same sentence long before hearing any mitigation evidence at all in violation of the juvenile sentencing statute and the appellate court's mandate.

D. This Court should remand for a new sentencing hearing where Pharoah was denied an impartial judge.

The State alternatively posits that this Court should reverse the appellate

court's remand for resentencing before a new judge because the record does not show that the sentencing judge was biased. (St. Br. 21-24) Although Pharoah did not argue bias as a basis for remand and reassignment to a new judge below and maintains that the appellate court's finding of an abuse of discretion is sufficient, he did argue that the appellate court should order the case to be assigned to a new judge on remand given Judge Sacks's prejudgment of the appropriate sentence. (Def. Br. App. 37-39) Moreover, as the record does support a finding of judicial bias, this Court may affirm the appellate court's holding on that basis. *City of Champaign v. Torres*, 214 Ill. 2d 234, 241 (2005); see also, *People v. Durr*, 215 Ill. 2d 283, 296 (2005) (holding that in determining the correctness of result reached by the Appellate Court, the Supreme Court is "in no way constrained by the Appellate Court's reasoning and may affirm on any basis supported by the record").

Criminal defendants are constitutionally entitled to procedural due process. U.S. CONST., amend. XIV; Ill. Const. 1970, art. I, § 2. Neither judge nor jury may be predisposed as to the outcome of a case. *People v. Williams*, 124 Ill. 2d 300, 308 (1988) (citing *Witherspoon v. Illinois*, 391 U.S. 510, 521 (1968)). The standard of review for determining whether an individual's constitutional rights have been violated is *de novo*. *People v. Hale*, 2013 IL 113140, ¶ 15. Due process requires criminal defendants receive "a fair trial in a fair tribunal, with an absence of any actual bias." *People v. Williams*, 124 Ill. 2d 300, 308 (1988). Here, the trial judge was biased against Pharoah where he was predisposed to impose the exact same 100-year sentence even before hearing any of the evidence or argument presented at the resentencing hearing.

The State argues that the trial judge “repeatedly signaled” that he would listen with an “open mind” to any information presented in mitigation and would fully consider the youth-related factors listed in the statute. (St. Br. 23-24) However, contrary to the State’s assertions, the judge’s many other statements throughout remand established that he did not actually do so and that he had predetermined that he would again impose a 100-year sentence long before hearing any mitigating evidence. (R.1036, 1056, 1057, 1058, 1059, 1060) The sentencing judge’s bias was shown in his complete failure to exercise discretion in resentencing Pharoah and, in so doing, violated his constitutional right to procedural due process. See *People v. Rivera*, 221 Ill. 2d 481, 516 (2006) (“defendant is entitled to an ‘impartial judge,’ meaning one who is not predisposed to rule in a given manner”); see Issue II.

E. Conclusion

This Court should affirm the Appellate Court’s holding and vacate Pharoah Morris’s 100-year sentence and remand for a new sentencing hearing before a different judge where Judge Sacks abused his discretion by predetermining Pharoah’s sentence and by refusing to consider the youth-related sentencing factors as required by 730 ILCS 5/5-4.5-105(a) and the appellate court’s mandate.

II. This Court should affirm the remand order reassigning this case to a different judge.

If this Court chooses to remand this case back to the trial court, it should affirm the appellate court's directive that it remand to a different trial judge.

Citing to 730 ILCS 5/5-4-1(b), the State asserts that it is essential and statutorily mandated that sentencing take place before the trial judge. (St. Br. 28) However, Illinois Supreme Court Rule 366(a)(5) (eff. Feb. 1, 1994) gives a reviewing court, in its discretion, the power to reassign a matter to a new judge on remand. *See People v. Serrano*, 2016 IL App (1st) 133493, ¶45. Furthermore, the State overbroadly asserts that 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. (St. Br. 28, citing 725 ILCS 5/114-5 (allowing substitutions “for cause”)).

In support of its argument against reassignment, the State relies on *People v. Class*, 2025 IL 129695, which the State contends dictates that reassignment to a new judge *must* be premised on a finding of bias. (St. Br. 28) In *Class*, this Court held that “an appellate court may *sua sponte* order judicial reassignment in subsequent postconviction proceedings...when the record on appeal clearly reveals bias, the probability of bias, or prejudice on the part of the trial judge.” 2025 IL 129695, ¶ 37 (internal citations omitted)). However, *Class* specifically limited its holding to post-conviction proceedings, explaining that such proceedings are collateral attacks rather than direct appeals, and therefore post-conviction petitioners are “not entitled to the full panoply of constitutional rights that accompany an initial criminal prosecution.” *Id.*, at ¶¶ 32-33. Pharoah's case is

not a post-conviction proceeding but a direct appeal following a remand for a new sentencing hearing. Indeed, *Class* explicitly declined to decide whether appellants on direct appeal must establish actual bias to obtain reassignment. *Id.*, at ¶41 n.2. Thus, *Class*'s holding that remand and reassignment to a new judge requires a finding of bias does not apply in this case.

Moreover, the State attempts to expand *Class* beyond the case's limited holding on the *sua sponte* reassignment of judges in post-conviction appeals, to cases such as this one, where the defendant has specifically requested reassignment on remand. The fact that the appellant did not request the reassignment to a new judge played a central role in the *Class* Court's analysis. *See Class*, 2025 IL 129695, at ¶ 45 ("only under the most extreme cases would disqualification on the basis of bias or prejudice be appropriate by an appellate court *sua sponte* on appeal in a postconviction proceeding"). Here, on direct appeal, Pharoah specifically requested that the appellate court remand the case to a different judge so as to remove any suggestion of unfairness from the sentencing. (Deft. App. Br. 38-39). Accordingly, and contrary to the State's assertions, *Class* does not bar Pharoah's requested relief for remand before a new judge. *See People v. Reyes*, 2025 IL App (2d) 210423-B, ¶ 56 (finding that *Class* is distinguishable from the case before it because "*Class* involved the *sua sponte* reassignment of the trial judge on remand, while defendant explicitly asked for reassignment here").

This Court should affirm the appellate court's holding that this case be assigned to a different judge on remand due to the sentencing judge's improper predetermination that he would reimpose the same 100-year sentence on remand,

rather than actual consideration of the youth-related factors required by 730 ILCS 5/5-4.5-105(a) and the appellate court's mandate. *Morris*, 2023 IL (1st) 220035, at ¶ 64. ("To ensure that both [Pharoah] and the State are able to approach resentencing with confidence that the judge will properly apply the current law with no predisposition . . . we direct the presiding judge of the criminal division to assign this case to a different judge within that division").

Fundamental to a defendant's right to due process is the defendant's right to have his case heard by a fair tribunal. U.S. Const. Amend. 14; Ill. Const. art. 1, § 2; *In re Murchison*, 349 U.S. 133, 136 (1955). A fair tribunal requires "not only the absence of actual bias but also the absence of the probability of bias." *People v. Hawkins*, 181 Ill. 2d 41, 50 (1998) (citing *Murchison*, 349 U.S. at 136). Accordingly, "due process principles require the disqualification of a judge, even in the absence of any actual bias, where the judge's participation in the case 'would create the appearance of partiality.'" *Class*, 2025 IL 129695, at ¶ 72 (Cunningham, J., concurring in part) (quoting *People v. Hall*, 157 Ill. 2d 324, 332 (1993)); *In re Lane*, 127 Ill. 2d 90, 106 (1989) ("[T]he administration of justice requires a tribunal that is impartial in appearance, as well as in fact."). To that end, "the appellate court may order that a case be reassigned to another judge on remand to avoid both actual bias and the appearance or probability of bias." *Class*, 2025 IL 129695, at ¶ 73 (Cunningham, J., concurring in part); *id.*, ¶ 31 (holding Illinois Supreme Court Rule 615(b)(2) grants the appellate court "the authority to modify the subsequent proceedings by directing that a new judge be assigned on remand"); see *People v. Heider*, 231 Ill. 2d 1, 25 (2008) (ordering resentencing before different

judge, without finding bias, “to remove any suggestion of unfairness”).

Here, Judge Sacks’s comments on the record – “It was a soft reversal,” and “The Appellate Court did not say the sentence was wrong. They said I did not consider the fact that he was a young guy. *** So to clarify I’ll say he was 16 instead of a young guy,” and “I just think it’s in some respect ridiculous. I said he was a young guy. What else do they want me to say?... A young guy is a young guy” – are evidence of bias, potential bias, or prejudice, because they demonstrated that Judge Sacks did not agree with the appellate court’s order. (R. 1058, 1059-1060) But these were not Judge Sacks’s only statements indicating that he was predisposed to imposing the same sentence. Indeed, Judge Sacks’s repeated questions about whether the under-21 parole statute allowed him to give the same sentence displayed a fixation on reimposing Pharoah’s initial 100-year term. (R.1036, 1056, 1057, 1058, 1059, 1060) Finally, Judge Sacks’s numerous dismissive and belittling comments while discussing the mitigation evidence and the application of the youth-related factors to Pharoah made clear that he was not open to any other sentence. *See Heider*, 231 Ill. 2d at 25 (ordering reassignment on remand where sentencing judge’s consideration of improper aggravating factor and comments at sentencing might suggest unfairness); *see also* Issue I.

Viewed together, the judge’s comments here suggest that his sentencing decision would remain the same, regardless of any evidence presented rather than as the result of proper consideration of the required youth-based mitigation factors. Given his comments, remanding to the same judge would present the same problem that Justice Cunningham in her partial concurrence in *Class*: “...there was an

objective probability that the original judge [in *Jolly* and cases like it], having prejudged the issue and already expressed an opinion on the merits of the defendant's claims, would harbor a partiality toward a particular outcome on remand.” *Class*, 2025 IL 129695, at ¶ 84 (Cunningham, J., concurring in part). Because the judge’s continued participation in the case would have “‘endangered the appearance of neutrality,’ reassignment was necessary” to uphold the defendant’s right to due process. *Id.*, at ¶ 90 (Cunningham, J., concurring in part) (quoting *Williams v. Pennsylvania*, 579 U.S. 1, 14 (2016)). The same is true here, and this case should be assigned to a different judge on remand in light of Judge Sacks’s demonstrated intention to reimpose the same sentence without consideration of the statutorily required youth mitigating factors.

Likewise, Judge Sacks’s violation of the appellate court’s mandate to resentence Pharoah in accordance with actual consideration of the youth related factors codified in 730 ILCS 5/5-4.5-105, dictates that Pharoah’s case should be reassigned to a different judge. *See Class*, 2025 IL 129695, at ¶¶ 77-78 (Cunningham, J., concurring in part and dissenting in part, joined by O’Brien, J.) (a trial court’s failure to adhere to the appellate court’s mandate shows the trial court’s bias toward a particular outcome, and the appellate court must be able to enforce its mandate through reassignment).

The resentencing court expressed hostility to the appellate court mandate and a predisposition to reimposition of the same 100-year sentence originally imposed and failed to consider all statutorily required youth-mitigating factors. These failures undermined the integrity and perception of fairness in the sentencing

process. This Court should therefore affirm the appellate court's holding vacating Pharoah's 100-year sentence and remand for a new sentencing hearing before a different judge.

CONCLUSION

For the foregoing reasons, Pharoah Morris, defendant-appellee, respectfully requests that this Court affirm the decision vacating Pharoah's 100-year sentence and remand for resentencing before a different judge.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in 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, is 47 pages.

/s/Melinda Grace Palacio
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No. 129992

IN THE

SUPREME COURT OF ILLINOIS

PEOPLE OF THE STATE OF	)	Appeal from the Appellate Court of
ILLINOIS,	)	Illinois, No. 1-22-0035.
	)	
Plaintiff-Appellant,	)	There on appeal from the Circuit
	)	Court of Cook County, Illinois , No.
-vs-	)	10 CR 17983.
	)	
PHAROAH MORRIS,	)	Honorable
	)	Stanley J. Sacks,
	)	Judge Presiding.
Defendant-Appellee.	)	

NOTICE AND PROOF OF SERVICE

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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 September 1, 2026, the Brief and Argument was filed with the Clerk of the Supreme Court of Illinois using the court's electronic filing system in the above-entitled cause. Upon acceptance of the filing from this Court, persons named above with identified email addresses will be served using the court's electronic filing system and one copy is being mailed to the defendant-appellee in an envelope deposited in a U.S. mail box in Chicago, Illinois, with proper postage prepaid. Additionally, upon its acceptance by the court's electronic filing system, the undersigned will send 13 copies of the Brief and Argument to the Clerk of the above Court.

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