

2026 IL App (4th) 250934

NO. 4-25-0934

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

September 16, 2026

Carla Bender

4th District Appellate
Court, IL

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
Plaintiff-Appellee,	)	Circuit Court of
v.	)	McLean County
WILLIE CHAMBERS,	)	No. 14CF791
Defendant-Appellant.	)	
	)	Honorable
	)	William A. Yoder,
	)	Judge Presiding.

JUSTICE CAVANAGH delivered the judgment of the court, with opinion.
Justices Knecht and Vancil concurred in the judgment and opinion.

OPINION

¶ 1 In the circuit court of McLean County, defendant, Willie Chambers, filed a *pro se* petition for relief under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2018)). Afterward, through appointed counsel, he filed an amended petition. (We note that the presentence investigation report refers to defendant as Willie Chambers Jr. and that he is quoted in the report as referring to himself by that name. Also, the report states that his deceased father was named Willie Chambers. Nevertheless, because the record otherwise refers to defendant as Willie Chambers and previous appeals referred to him by that name (*People v. Chambers*, 2021 IL App (4th) 190151; *People v. Chambers*, 2018 IL App (4th) 160232-U), we refer to him, for the sake of consistency, as Willie Chambers.). The State moved to dismiss the amended petition on the ground that the amended petition was legally insufficient. The court granted the motion, and

defendant appeals.

¶ 2 He contends that the circuit court should have denied the State’s motion for a dismissal and granted him an evidentiary hearing because his amended petition, supported by an evaluation by a clinical psychologist, made a substantial showing that the 42-year term of imprisonment imposed upon defendant for the first degree murder of Ronald Smith (see 720 ILCS 5/9-1(a)(2) (West 2014))—a murder he committed hardly more than a month after his eighteenth birthday—violated the proportionate penalties clause of the Illinois Constitution (Ill. Const. 1970, art. I, § 11) as applied to him. Specifically, he claims, on appeal, that the sentence of 42 years’ imprisonment is cruel and degrading and so wholly disproportionate to the offense as to shock the moral sense of the community.

¶ 3 In our *de novo* review, we are unconvinced that imprisonment for first degree murder is cruel or degrading or that, given the circumstances of the offense and defendant’s previous history of offending, the community of Bloomington-Normal, Illinois, would regard 42 years’ imprisonment as shocking to the conscience. Therefore, we affirm the circuit court’s judgment.

¶ 4 I. BACKGROUND

¶ 5 On June 10, 2014, a grand jury returned an indictment against defendant. Count II charged him with the first degree murder of Smith in that on June 2, 2014, without lawful justification, he struck Smith on or about his body, knowing that, by doing so, he created a strong probability of great bodily harm to Smith and that he thereby caused Smith’s death. See 720 ILCS 5/9-1(a)(2) (West 2014).

¶ 6 At a hearing on August 7, 2015, defendant, through defense counsel, proposed entering a guilty plea to count II in return for consideration from the State. Under the “partially

negotiated plea agreement,” as the circuit court called it, defendant would plead guilty to count II; pay fines, fees, costs, and restitution in all the criminal cases pending against him; and testify truthfully against his two codefendants, Anthony Davis-Dickson and Tory Washington. The State, for its part, would dismiss the charges pending against defendant in other cases: charges of aggravated battery and mob action in McLean County case No. 14-CF-782; charges of robbery, aggravated battery, and mob action in McLean County case No. 14-CF-646; and charges of robbery, aggravated battery, and mob action in McLean County case No. 14-CF-638. Also, the State would dismiss the first and second petitions for revocation of probation that were pending against defendant in a residential burglary case, McLean County case No. 13-CF-1054, although he “would be unsuccessfully discharged from probation as part of the agreement for that case” (meaning he would be successfully discharged from probation while being found to have been unsuccessful in complying with its conditions). In the present case, the State would dismiss counts I, III, and IV of the indictment, which charged defendant with the first degree murder of Smith on other theories besides knowledge of a strong probability of great bodily harm (see *id.* § 9-1(a)(1)-(2)). Defendant’s guilty plea to the remaining count of the indictment, count II, would be—as the court also characterized it to defendant—“an open plea to that count whereby the minimum sentence that would be imposed would not be less than 20 years['] [imprisonment and] the maximum sentence would not be more than 60 years['] [imprisonment].” Defendant acknowledged he understood those terms of the plea agreement.

¶ 7 The circuit court then reviewed with defendant the allegations in count II and confirmed that, given those allegations, he wished to plead guilty to that count:

“Q. *** The charge alleges that you, on or about the 2nd day of June, 2014, in the County of McLean, State of Illinois, committed the offense of Murder in that

you, without lawful justification, struck *** Smith on and about the body knowing that such acts created a strong probability of great bodily harm to *** Smith, thereby causing the death of *** Smith. Do you understand that charge?

A. Yes, sir.

Q. Is that the offense that you wish to plead guilty to at this time?

A. Yes.”

¶ 8 That offense, the circuit court informed defendant, was a Class M felony, which, in the absence of the plea agreement, would be punishable as follows:

“a sentence of not less than 20 years['] [imprisonment] with a maximum of 60 years['] [imprisonment] unless it would be determined that you were eligible for an extended-term sentence, in which case, then the maximum could be up to 100 years['] [imprisonment] or unless you were eligible for a sentence of natural life.

Under each of the latter categories, extended term or natural life, in essence, the State would be required to establish that the circumstances surrounding the commission of the offense were exceptionally brutal or heinous, indicative of wanton cruelty.”

If defendant were found guilty of first degree murder, there would be no possibility of probation or conditional discharge, the court cautioned him, nor could he earn any good-time credit: he would have to serve 100% of the actual term of imprisonment the court imposed. After serving his prison sentence, he additionally would have to serve up to three years of mandatory supervised release, the court said, and there would be a fine.

¶ 9 Those were the punishments that defendant would face if he were found guilty at trial. The circuit court pointed out that, under the plea agreement, by contrast, “the State would not

be seeking either for the Court to consider an extended-term sentence or a life sentence, in that[] they would be foregoing *** the finding that this act was exceptionally brutal or heinous indicative of wanton cruelty.”

¶ 10 Defendant confirmed he understood the plea agreement as the circuit court had explained it to him. The court reiterated:

“So between the terms of not less than 20, nor more than 60 years, there is no agreement other than that as far as the actual term in the Department of Corrections as to what sentence would be imposed upon you for this particular offense at the time of the sentencing hearing. Each side would be afforded the opportunity to present any evidence; there would be evidence in aggravation by the State, evidence in mitigation by your attorney. To the extent that you have been deemed by the State to have been fully cooperative and of aid to the State in them on prosecuting your co-defendants, that could be construed as a factor in mitigation by the State, that being your level of cooperation; but, nonetheless, the parties, that being either your attorney and/or the State’s Attorney are not bound by any term in the Department of Corrections to recommend to the Court so long as it’s not less than 20 nor more than 60 years.”

The court asked defendant if he understood. He said he did. The court asked him, “Knowing that, is that still your desire to plead guilty on this charge?” He answered, “Yes, sir.”

¶ 11 The circuit court then admonished defendant on the rights he would give up by pleading guilty to count II, including the right to have the State prove to a jury—or, if he waived a jury, have the State prove to a judge—that he was guilty beyond a reasonable doubt.

¶ 12 The circuit court asked defendant if the signature on the plea agreement purporting

to be his signature was in fact his signature. He answered, “Yes.” The court asked him if he had reviewed the plea agreement with defense counsel. He answered, “Yes.” The court asked him if he understood the plea agreement. He answered, “Yes.” The court asked him if anyone had forced him to enter into the plea agreement or had used threats to make him enter into it. He answered, “No.” The court asked him if, in return for his guilty plea, any promises had been made to him other than the promises in the plea agreement. He answered, “No.”

¶ 13 The circuit court then requested that the State provide a factual basis to support the proposed guilty plea to count II.

¶ 14 The prosecutor said he would begin the factual basis by asking defendant to take the stand and testify pursuant to his promise of cooperation. Defendant took the stand and, after being sworn, testified substantially as follows.

¶ 15 The night of June 2, 2014, defendant was at O’Neil Park in Bloomington with Washington and Davis-Dickson, skateboarding, drinking hard liquor, and taking Xanax pills. They saw Kyle Fairchild at the park and decided to beat him up. All three of them punched Fairchild. Defendant punched him in the face or the back of the head.

¶ 16 After receiving this beating, Fairchild left the park. The three of them went over to a jungle gym and drank more alcohol and took more pills. Then they saw “the homeless guy,” Smith, who was by a tree next to a fence. He “just started layin’ down.” Davis-Dickson “was lookin’ over there sayin’, ‘Let’s go beat him up.’ ” The three of them went over to the tree, and defendant struck Smith first, hitting him in the face. Defendant continued in his testimony, “Then [Washington] hit him and then he started yellin’ and then *** me and *** Washington seen *** Davis-Dickson jump all the way in the air and crushed him in his ribs. And after he was yellin’, he stopped yellin’ after that and we ran away.” Smith was lying on the ground “the whole time this

was going on.” When Davis-Dickson jumped on his ribs, Smith went “completely silen[t].” Then the three of them went to the pavilion and did some more drinking. When they saw Smith get up off the ground and start walking away, they went “back and beat him up some more,” “punch[ing] him *** a couple of times more.” After the three of them inflicted this second beating on Smith, Davis-Dickson and Washington “ran off,” but defendant stayed behind for a moment. He testified, “I told [Smith], ‘Sorry,’ and I picked up some [G]oldfish [crackers] that he dropped, and then after I told him I was sorry and picked up the [G]oldfish [crackers], I ran away also.” The prosecutor asked defendant, “And you’re talking about [G]oldfish [crackers] that belonged to the homeless man?” He answered, “Yes.”

¶ 17 After running out of O’Neil Park, defendant met up again with Davis-Dickson and Washington. Two other individuals, Jamaude Tutwiler and Isaiah Dorch, joined them, and they all began walking toward Normal. They went into Kroger’s, where Davis-Dickson was caught stealing liquor. “[T]hey just kicked us out [of] the store,” defendant testified, “and we kept on drinkin’ some more.”

¶ 18 Near Carle BroMenn Medical Center in Normal, they saw “another guy.” Defendant testified that Davis-Dickson and Washington “just beat [this man] up till he was bleedin[g]” and “on the ground,” and they “all ran off afterwards.”

¶ 19 They walked farther and saw “another guy.” “They said” to defendant, “ ‘It’s your turn,’ ” and defendant punched this individual four or five times.

¶ 20 They walked “deeper into Normal[,] right next to the library,” when they saw “another guy,” who had headphones on. Davis-Dickson “punched him, [and] he fell to the ground[,] and then they jumped him and *** took his headphones.”

¶ 21 The police stopped them “because *** Washington had the blue headphones in his

pockets in there[] and the guy [had] called the police talkin' 'bout [']they stole from me.['] ” The police arrested defendant and his companions.

¶ 22 Having no more questions for defendant, the prosecutor supplemented the factual basis with his own statement, by way of proffer. According to the prosecutor, Smith went to the hospital on June 2, 2014, after defendant, Davis-Dickson, and Washington beat him up. Smith remained in the hospital until July 3, 2014, when he “ended up dying as a result of those injuries.” An autopsy revealed that “the cause of death was internal injuries caused by the attack that occurred.”

¶ 23 The police seized some items of clothing that defendant and his codefendants were wearing the night of June 2, 2014, the prosecutor continued in his proffer, and these items appeared to be bloodstained. Forensic testing by a laboratory in Morton, Illinois, revealed that defendant’s shoes had the blood of Smith on them and that his shirt had the DNA and blood of another victim on it.

¶ 24 After the prosecutor concluded his proffer, the circuit court asked defense counsel if he would stipulate that the name of the decedent was Ronald Smith. Defense counsel so stipulated and added that, according to his review of the discovery materials, Smith “died from an infection that was secondary to the internal injuries he received.” Defense counsel further conceded that DNA testing “conclusively proved that [defendant] was involved in this incident.” The court inquired:

“THE COURT: *** Even though [defendant] may not have been the sole proximate cause, his actions were a proximate cause of the death of Mr. Smith[?]

[DEFENSE COUNSEL]: Yes, Judge. We concede that and stipulate to that.”

¶ 25 After finding a sufficient factual basis for the guilty plea to count II and further finding that the guilty plea was knowing and voluntary, the circuit court accepted the guilty plea and entered a judgment upon it. The court then ordered the preparation of a presentence investigation report.

¶ 26 According to the presentence investigation report, which was filed on October 19, 2019, defendant was born on April 29, 1996, making him 18 years and 1 month old when he committed the first degree murder of Smith.

¶ 27 For some four years before the murder, defendant, as a minor, had been falling afoul of the law. He repeatedly was put on probation, which he repeatedly violated. On July 1, 2010, when he was 14, petitions for adjudication of wardship charging him with one count of retail theft and two counts of theft were found to have been proven. Nineteen days later, a petition for revocation of probation—alleging he had been absent from his residence from July 2 to 7, 2010—was found to have been proven, and he was placed on a new term of probation for 12 months, with 13 days of detention. Further petitions for adjudication of wardship and revocation of probation followed. On October 12, 2010, a petition for revocation—alleging that he had been absent from his residence from September 17 to 20, 2010, and that he had been “unsuccessful[ly] discharge[d] from [an] Extended Day Program”—was found to have been proven. On January 4, 2011, a petition for adjudication of wardship, charging him with residential burglary, was found to have been proven. On April 9, 2012, two more petitions for adjudication of wardship, which charged him with two counts of domestic battery and two counts of “resisting,” were found to have been proven. He was to remain on probation and was given 30 days’ detention.

¶ 28 Defendant had one prior “adult” conviction: residential burglary, an offense he committed on August 6, 2013, when he was 17. For that offense—his second offense of residential

burglary—he was sentenced to probation. Afterward, two petitions for revocation of probation were filed in that case. On August 7, 2015, there was “an unsuccessful discharge from probation,” and the two petitions were dismissed.

¶ 29 Defendant had been receiving services since he was three years old and had been hospitalized at least seven times for behavioral or mental health problems, including suicide attempts or suicidal ideation. The presentence investigation report summed up:

“[Defendant] has been on juvenile probation in 09 JD 88 since March 2010. Over the four (4) years [preceding] his current incarceration, every service/resource available has been provided to the defendant. The defendant exhausted all resources, and continued to engage in inappropriate, unproductive[,] and criminal behavior. While on juvenile probation in 09 JD 88, the defendant committed the offense of Residential Burglary in McLean County Cause [No.] 13 CF 1054. On February 3, 2014, he was granted [Treatment Alternatives to Street Crimes (TASC)] probation in this cause. Four (4) months later he was in custody for Murder, Robbery, Aggravated Battery, and Mob Action.”

The TASC probation was supposed to be for 30 months, and defendant committed the first degree murder of Smith while on that probation.

¶ 30 Before committing that offense as an adult, defendant had a troubled childhood. His father was deceased, having been fatally shot in 1997. In September 1998, defendant was removed from his home and placed in foster care because his mother had a drug problem. By defendant’s account, he was physically abused while in foster care and was locked in closets for long periods of time. In April 2001, after his mother completed rehabilitative services, he was returned to her custody.

¶ 31 On October 23, 2015, the circuit court held a sentencing hearing, at which the court admitted the presentence investigation report, having ascertained from the attorneys and Shelley L. Kosky, the probation officer who had signed the report, that no additions, corrections, or changes needed to be made to the report.

¶ 32 The prosecutor then provided the circuit court a “statement of restitution addendum,” in which the parties had agreed on the amount of restitution that defendant should be ordered to pay.

¶ 33 Also, the circuit court admitted two victim impact statements: one by Smith’s son, Andrew Smith, and the other by Smith’s brother, Clifton Smith. In his statement, Andrew described Smith as a “happy freewheeling man that would give his shirt off his back if needed.” It saddened him that Smith would never get to see his grandchildren grow up and would never again be at family get-togethers. He dreaded answering Smith’s mother, who had Alzheimer’s disease, when she asked him if he had seen his father lately. Clifton wrote, “My brother might have been [a] homeless drunk. But he never hurt no one [or] did anyone wrong in any way.”

¶ 34 Finally, the attorneys agreed that, when it came to evidence in aggravation, there would be no live testimony. They agreed that, instead, the circuit court could rely on its notes and memory of Davis-Dickson’s trials in McLean County case Nos. 14-CF-649, 14-CF-650, and 14-CF-792. Specifically, the agreed-upon procedure was that, after the defense presented mitigating evidence, the prosecutor could make an argument summarizing the relevant testimony from Davis-Dickson’s trials. If the prosecutor’s summary conflicted with the court’s notes and recollection, the court’s notes and recollection should prevail. After the attorneys described that suggested procedure, the court responded, “I’m sorry. I misunderstood. I thought there was going to be some

type of an offer of proof, but you're just incorporating it within the State's argument." "Correct, Your Honor," the prosecutor replied.

¶ 35 "So that concludes[,] then[,] the State's evidence in aggravation," the circuit court announced. The court then asked defense counsel if he had any evidence in mitigation. Without objection by the State, the court admitted defense exhibit Nos. 1 to 6.

¶ 36 Defendant's exhibit No. 1 was a conference summary report by the Mackinaw Valley Special Education Association, dated December 11, 2002, concluding that, although defendant had "average intelligence," "a significant discrepancy exist[ed] between this student's ability and achievement," specifically in written expression, reading comprehension, basic reading skills, and mathematical reasoning and calculation. The determination was made that defendant was eligible for special education services.

¶ 37 Defendant's exhibit No. 2 was a social developmental study, dated May 18, 2004, by the Special Services Department of McLean County Unit District No. 5. According to this study, defendant had been diagnosed with attention-deficit/hyperactivity disorder (ADHD) and oppositional defiant disorder (ODD). He had been "display[ing] severe behavior concerns," such as "wandering out of the room, destroying his own and other people's property, defiance, yelling and threatening other students, and aggressive behaviors toward staff." It was determined that he had "a behavioral/emotional disorder [and] learning disability" and that he was "eligible for *** speech and language services as a related service."

¶ 38 Defendant's exhibit No. 3 was a comprehensive mental health assessment, dated January 27, 2005, by the McLean County Center for Human Services. In answer to the question, "Main problems you would like your child to address in therapy?" someone, apparently defendant's mother, had written, "[B]ehavior & Anger[.] Talk about what is make him act out at

school.” In a comprehensive mental health assessment, a therapist, Cheryl Goldberg, diagnosed defendant with ADHD, not otherwise specified, and ODD. Goldberg wrote that defendant, who was then eight, had “been acting-out aggressively at school” and hitting his teachers, although his mother “report[ed] no aggressive behaviors at home.” At school, defendant “recently bit a teacher and was suspended.” His mother was “frequently called away from work to take [defendant] home” and was “concerned about losing her job.” Defendant subsequently received treatment for these aggressive behavioral tendencies. A document from the McLean County Center for Human Services, titled “Closing/Transfer” and dated July 8, 2005, noted that he had undergone nine sessions, described as “Individual therapy, Family therapy, Play therapy, Reality therapy, Anger and Stress management training, [and] Training in parenting and problem solving skills.” The “Reason for discontinuation” was that “Client completed treatment.” The “Continuity Arrangements” were to “Continue with recommended services.”

¶ 39 Defendant’s exhibit No. 4 was a psychoeducational evaluation of defendant, when he was 11, by Dean R. Brown, a school psychologist at the Mackinaw Valley Special Education Association. Brown noted:

“At the time of the current referral, [defendant’s] teachers reported that [defendant] ha[d] made noticeable progress, especially in his ability to remain on task and to remain in his assigned area. His social skills [were] good, and he [was] often sought out by his peers. He present[ed] no aggressive behavior.”

Nevertheless, defendant “continue[d] to require support in his response to work, teacher directives[,] and problem solving.” After administering to defendant a battery of tests, Brown concluded that “[t]he best estimate of [defendant’s] true intellectual ability place[d] him at the low end of the low average range, suggesting that he [was] likely to experience difficulties keeping up

with same-aged peers” and that he was “likely to require more repetition, extended time, and increased adult support to have reasonable access to the general curriculum.”

¶ 40 Defendant’s exhibit No. 5 was an Illinois Standards Achievement Test from the spring of 2009. According to this test, defendant’s performance in reading, mathematics, and science was “Below Standards.” Specifically, in reading, he did as well as or better than only 5% of students nationally; in mathematics, as well as or better than 26%; and in science, as well as or better than 22%.

¶ 41 Defendant’s exhibit No. 6 consisted of two letters. One letter, dated October 23, 2015, was from Cheryl Fletcher, a member of the church defendant’s family attended, who noted that she had always found defendant “to be a young man who was easily swayed by his peers” and that he had owned up to what he had done. Although she did not deny that defendant should pay for his crime, she argued that “[t]he bacterial peritonitis that was the cause of *** Smith’s death due to the blunt force trauma of his abdomen had nothing to do with [defendant],” who “was not the young man who jumped on *** Smith[,] causing the peritonitis to kill him.” She urged the circuit court, therefore, to “[p]lease be merciful.”

¶ 42 The other letter in defendant’s exhibit No. 6 was from Deborah R. Simmons, the minister at the church defendant’s family attended, who remarked that defendant had been subjected to “unfortunate situations and circumstances in his life.” Simmons believed that defendant was “very sorry for what he ha[d] allowed himself to be caught up in.” Although she was “aware that [defendant] ha[d] to spend time for the crime committed,” she requested that the circuit court “extend leniency toward him.”

¶ 43 In addition to presenting those exhibits, the defense called five witnesses to testify at the sentencing hearing: defendant’s brother, Rayvon Shorter; defendant’s stepfather, Demetrius

LeFlore; defendant's grandmother, Lilly Mae Davis; defendant's aunt, Cathy King; and defendant's mother, Tammy LeFlore. Some of these witnesses testified to defendant's ambitions for the future. According to Shorter, defendant had intended to enlist in the military. According to Demetrius, defendant was "a pretty good chef" and had intended to go to culinary school. King believed that the murder was out of character for defendant, whom she had always found to be courteous, kind, and respectful. Tammy testified that defendant had been diagnosed with ADHD, bipolar disorder, and post-traumatic stress disorder (PTSD) and that he was receiving disability benefits from the Social Security Administration for those conditions. "[E]xcept for a brief period of time when he was very young," she had "been involved in his life on a daily basis." Because he had struggled with reading, she had sought assistance for him. She was very close to him. Before he was jailed, he lived with her, and she saw him every day. These witnesses expressed a willingness to "be there for [defendant] in the future."

¶ 44 After defendant's witnesses testified, the attorneys made their arguments. Toward the beginning of his argument, the prosecutor raised the question of why defendant had caused such suffering and regret. The reason, the prosecutor said, was that, on June 2, 2014, defendant played a game of "Point them out, knock them out." In other words, what defendant did to Smith "was his idea of fun"; he "made a game out of hurting and robbing random people." He had "blood on his clothing at the time of his arrest *** that matched the DNA profile of Patrick Reed" (one of the robbery and assault victims) "in addition to that of *** Smith." The prosecutor recounted, "Further, Your Honor, when the defendant relived that night on the witness stand in the co-defendant's trial, in between yawns there was no visible compassion or remorse. I saw no apathy [*sic*]. And that is scary, and that is dangerous, Your Honor."

¶ 45 After making those initial observations, the prosecutor discussed the factors in aggravation, as he saw them. The first such factor, in his view, was defendant's prior history of criminality. From 2010 to 2012, defendant was adjudicated a delinquent minor for criminal damage to property, retail theft, theft, residential burglary, domestic battery, and "resisting" a peace officer. Less than a year before the murder, he committed a second offense of residential burglary, this time as an adult (or he was prosecuted as an adult). On February 3, 2014, he was placed on 30 months' probation for the residential burglary. About four months later, while he was on probation, he attacked and robbed Smith and others.

¶ 46 The second factor in aggravation, according to the prosecutor, was the need to deter others. He argued:

“ ‘Point them out, knock them out’ is not a game residents of this community should have to endure or be fearful of. The Constitution Trail can be a wonderful recreational resource to the citizens of Bloomington-Normal, but not if they read the paper and learn about senseless attacks like these and are too afraid to use it.”

¶ 47 After raising those two factors in aggravation, the prosecutor addressed the subject of mitigation. He argued:

“[Defendant] has received mitigation by taking responsibility *** for what happened to *** Smith. And because of that, as he's sitting here, this defendant doesn't have a finding of wanton cruelty hanging over his head, and he doesn't have the possibility of a sentence that would be consecutive to a robbery sentence, either. So this defendant as he sits here has had some mitigation because of his plea in this case.”

¶ 48 With respect to the defense exhibits that had been presented in mitigation, the prosecutor made two points. First, although it was clear that, when growing up, defendant had “behavioral problems” and academic difficulties, he also “had numerous resources at his disposal.” When he availed himself of those resources, “his prognosis was always optimistic.” Even defendant’s mother had testified that, “yes, he’s had a lot of services,” and “when he used those services, he did well.” Second, the prosecutor cautioned against assuming there was a connection between cognitive limitations and violence:

“What I think also is important is what’s not in those records. Not in those records is any correlation between his cognitive abilities and his thirst for violence. I saw no explanation of how his difficulties in the classroom are responsible for him using his fists and using his feet to splatter unsuspecting victims’ blood all over them.”

“Again and again this happened that night,” as Dorch, Tutwiler, Washington, and defendant had testified. The violence that night was repeated and persistent.

¶ 49 For all those reasons, the prosecutor requested that the circuit court sentence defendant to imprisonment for 60 years for the first degree murder of Smith.

¶ 50 While conceding the senselessness of Smith’s murder and acknowledging defendant’s prior juvenile and adult record, defense counsel argued, first, that the events of June 2, 2014, “were precipitated by [defendant’s] alcohol and drug use” and that, according to the testimony of defendant’s family members, such violence was “out of character for [defendant].” Second, defense counsel argued that the events of June 2, 2014, “were preceded and shaped by serious mental illness that the defendant suffer[ed] from,” specifically, bipolar disorder, ADHD, “and at other times [PTSD].” “[B]ecoming a young adult [was] difficult under the best of

circumstances,” defense counsel observed, but these “debilitating *** mental illnesses,” along with “borderline intellectual functioning,” made the transition “doubly difficult for” defendant. To compound his difficulties, defendant lost his father at a very young age and was in foster care “during a very formative time in his life,” which, defense counsel suggested, went “a long way towards explaining the antisocial behavior that [he was] engaged in.” Also, defendant suffered from depression. The presentence investigation report revealed that he had “thoughts of harming himself, suicidal ideation, faulty attempts at self-harm, and numerous hospitalizations to deal with mental illnesses.” In a word, defendant was “truly a lost soul.”

¶ 51 Nevertheless, defense counsel maintained that defendant had “demonstrated a capacity and willingness to change” and to become “a better man.” Defendant had so demonstrated by taking responsibility in the only way he could: by pleading guilty in the present case and by testifying truthfully and in detail at the trial of one of his codefendants, Davis-Dickson.

¶ 52 Finally, defense counsel cautioned against drawing conclusions from the demeanor or facial expressions that defendant appeared to display while testifying at Davis-Dickson’s trial:

“Human beings are capable of displaying various emotions, but to know what’s in his heart based on the fact that perhaps out of nervousness he yawned a couple of times, I think that is a dangerous road to go down. I think a better indication is what he said in the presentence [investigation] report, about how he truly feels about what he did, how he is begging the family of *** Smith for forgiveness.”

¶ 53 Defense counsel suggested that because defendant could “be salvaged as a human being,” imprisonment for 30 years would balance the needs of punishment, protection of society, and deterrence with the possibility of rehabilitation.

¶ 54 The circuit court then asked defendant if he wished to make a statement in allocution. Defendant did so, explaining that he had not meant to kill Smith and remarking that he could not live with himself for what he had done. He said, “I be telling myself[,] ‘You are not that kind of person,’ but much of the time I be helping a lot of people. I [was] drinking that night.” He disavowed any intention, however, to lay the blame on liquor. He said he was sorry for what had happened to Smith. He acknowledged, “A man is dead because of me.” He requested that Smith’s family forgive him, and he hoped that someday he would “get[] the chance to go back in the world and at least try to make up for what [he had done].”

¶ 55 After defendant made his statement in allocution, the circuit court listed the sources of information it had considered in determining the sentence it would impose: (1) the factual basis that had been provided in support of defendant’s guilty plea; (2) the testimony and DNA evidence from Davis-Dickson’s trial; (3) the presentence investigation report; (4) the history, character, and attitude of defendant; (5) the evidence presented at the sentencing hearing—namely, People’s exhibit Nos. 1 and 2, defendant’s exhibit Nos. 1 to 6, and the testimony of defendant’s witnesses; (6) arguments by counsel; (7) defendant’s statement in allocution; and (8) the factors in mitigation and aggravation.

¶ 56 The circuit court found four factors in mitigation. First, the codefendants had induced or facilitated defendant’s conduct. Second, when committing the offense, defendant was under the influence of alcohol and drugs—although, the court noted, consumption of the pills was illegal as was the consumption of alcohol at his age. Third, there did not appear to be any indication in the presentence investigation report that defendant was intoxicated when committing his previous offenses, which, except for domestic battery and resisting a peace officer, were nonviolent. Thus, there was “some evidence” that “the specific *** acts” that had brought

defendant before the court were “unlikely to re-occur.” Fourth, the court found that defendant was intellectually disabled.

¶ 57 On the other hand, the circuit court found three factors in aggravation. First, defendant had “a history of prior delinquency or criminal activity.” Second, there was a need to deter others from committing the same offense. Third, defendant was on probation when he committed the offense.

¶ 58 Notwithstanding those factors in aggravation, the circuit court thought it was “disingenuous” of the State to recommend the maximum punishment of 60 year’s imprisonment, considering that “there [were] clearly mitigating circumstances.” Also, the court agreed with defense counsel that it was inappropriate for someone “not trained in either psychology or in mannerisms of individuals[] to draw any conclusions based upon *** facial expressions or yawns or otherwise” to gauge “the interest or lack thereof of the defendant in the proceedings.”

¶ 59 The circuit court agreed with the State, however, that the game that defendant and his codefendants played the night of June 2, 2014, was shocking and cruel. They “were like a pack of wolves preying on innocent victims,” the court remarked, or they were like the roving malefactors in *A Clockwork Orange*.

¶ 60 Even so, the circuit court acknowledged that the circumstances of the offense should not be the sole consideration in the determination of a sentence:

“The Court, in imposing a sentence, must also balance a defendant’s rehabilitative potential with the seriousness of the offense, and each sentencing decision must be based on the particular circumstances of the case. And the Court must consider factors such as the defendant’s credibility, demeanor, general moral character, mentality, social environment, habits, and age.”

¶ 61 Having considered “all the factors,” “statutory and otherwise,” the circuit court ordered that, within two years after his release from prison, defendant should pay restitution in the amounts of \$500 to Andrew Lawrence and \$820 to Reed—an obligation that defendant was to bear jointly and severally with his codefendants. The court also imposed mandatory fines, fees, and costs, giving defendant credit, against the fines, for 508 days in pretrial custody at the rate of \$5 a day. Finally, while acknowledging that defendant would have to serve 100% of whatever prison term the court imposed, the court sentenced him to imprisonment for 42 years.

¶ 62 On November 9, 2015, defendant moved to withdraw his guilty plea to count II, alleging that the plea had been “involuntarily made” because he “ha[d] borderline intellectual functioning and at the time of his plea did not fully understand the plea or the consequences thereof.”

¶ 63 Also on November 9, 2015, defendant moved for reconsideration of the sentence, claiming that, “given the facts and circumstances,” the sentence was excessive.

¶ 64 On November 16, 2015, defendant additionally filed a *pro se* motion to withdraw his guilty plea. In his *pro se* motion, he criticized the performance of defense counsel.

¶ 65 At a hearing on March 22, 2016, the circuit court denied permission to withdraw the guilty plea and declined to reduce the sentence.

¶ 66 Defendant took a direct appeal, in which he argued only that the circuit court had erred by failing to appoint new counsel, pursuant to *People v. Krankel*, 102 Ill. 2d 181 (1984), to argue his *pro se* claim that defense counsel had rendered ineffective assistance. See *Chambers*, 2018 IL App (4th) 160232-U, ¶ 2. The appellate court held that, because defendant received “new, independent defense counsel” in the proceedings below after he criticized his previous defense counsel’s performance, he “already ha[d] received all the relief he possibly could [have] receive[d]

under *Krankel*.” *Id.* Therefore, declining defendant’s request to “remand this case with directions to”—again—“appoint new defense counsel,” the appellate court affirmed the circuit court’s judgment. *Id.*

¶ 67 On January 22, 2019, defendant filed a *pro se* petition for postconviction relief, in which he repeated his *Krankel* claim but also claimed that the 42-year prison term violated the proportionate penalties clause. On February 7, 2019, the circuit court summarily dismissed the *pro se* petition as frivolous or patently without merit. Defendant appealed, and the appellate court reversed the summary dismissal, remanding the case for further postconviction proceedings. *Chambers*, 2021 IL App (4th) 190151, ¶ 1.

¶ 68 On remand, the circuit court appointed postconviction counsel, who, on September 25, 2024, filed an amended petition for postconviction relief. The amended petition claimed that 42 years’ imprisonment for the first degree murder of Smith—a murder that defendant committed after he, defendant, had just turned 18—violated the proportionate penalties clause of the Illinois Constitution (Ill. Const. 1970, art. I, § 11), especially in view of defendant’s “developmental immaturity, cognitive impairments, and potential for rehabilitation.” Along with the amended petition, postconviction counsel submitted an unsworn psychological evaluation by a clinical psychologist, Dr. Oluwatamilore Odimayo, discussing those characteristics of defendant.

¶ 69 Dr. Odimayo titled his evaluation “*Miller* Sentencing Evaluation,” after *Miller v. Alabama*, 567 U.S. 460, 479 (2012), in which the United States Supreme Court held that “the Eighth Amendment [(U.S. Const., amend. VIII)] forbids a sentencing scheme that mandates life in prison without possibility of parole for juvenile offenders.” The Supreme Court’s rationale for its holding was as follows:

“Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surrounds him—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional. It neglects the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him. Indeed, it ignores that he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth—for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys. [Citations.] And finally, this mandatory punishment disregards the possibility of rehabilitation even when the circumstances most suggest it.” *Id.* at 477-78.

The so-called “*Miller* factors” come from that rationale in *Miller*.

¶ 70 The first *Miller* factor that Dr. Odimayo considered was defendant’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.” Dr. Odimayo opined that, “[a]lthough [defendant] was 18 at the time of the offense, his developmental/intellectual age was way below his chronological age, based on several psychological assessments performed before the offense.” Because of defendant’s “borderline intellectual disability,” Dr. Odimayo did not “believe [that defendant] could consider the severity of his offense, the consequences of his behavior, and his ability to defend himself in the legal

system.” Dr. Odimayo explained that—when under the influence of drugs, alcohol, and peers—defendant “was bound to make more impulsive behaviors based on his PTSD diagnosis.”

¶ 71 PTSD, as opposed to bipolar disorder and ADHD, was Dr. Odimayo’s diagnosis of what had been psychologically afflicting defendant all along. In Dr. Odimayo’s opinion, defendant had been subjected to a “callous misdiagnosis of Bipolar Disorder and ADHD,” whereas he had been suffering from PTSD for years. Dr. Odimayo regarded his diagnosis of PTSD as reinforced by defendant’s “Adverse Childhood Experience Score of 8 out of 10, which [was] a clear indication of physical abuse and neglect.” Now that defendant was taking only an antianxiety medication, Buspar—a medication better suited to the treatment of PTSD—instead of medications for ADHD and bipolar disorder, defendant’s level of anxiety had gone down, Dr. Odimayo noted, and defendant was sleeping better.

¶ 72 The second *Miller* factor was whether defendant “was subjected to outside pressure, including peer pressure, familial pressure, or negative influences.” Defendant had told Dr. Odimayo that because he, defendant, “didn’t know how to communicate,” older members in his group of friends “called the shots” regarding “some of the negative things he did.” By defendant’s account, he was “peer pressured to hang out with” Washington and Davis-Dickson “the night of the assault on Mr. Smith.” Although defendant denied he was “peer pressured to use drugs” that night, “he felt he had no choice because everyone else was doing it.” He claimed to have fallen “too deep into substance abuse” to “know what happened.” Dr. Odimayo pointed out: “A child with limited intellectual ability can be easily influenced. According to the National Institute of Health, children with mild intellectual disability or borderline intellectual functioning can easily be influenced by negative or positive peers, which can lead to prosocial or antisocial behaviors.”

Defendant, in fact, had “indicated his emotional and intellectual [im]maturity by sending a love letter to a correctional officer through another person in custody.”

¶ 73 The third *Miller* factor was “the person’s family, home environment, and educational and social background, including any history of parental neglect, physical abuse, or other childhood trauma.” Defendant’s mother and stepfather made little money (defendant had told Dr. Odimayo), and because there had been an occasion when they reported defendant to the police for domestic battery, “he wasn’t too connected with his family.” His stepfather “was constantly beating his mother in front of him,” and they were getting a divorce. His stepfather would become intoxicated, use drugs, and “lash out at the entire family.” Defendant used to get beaten up by his older brother. According to the presentence investigation report, defendant had received treatment at the juvenile detention center, Streamwood Behavioral Healthcare System, Lincoln Prairie Behavioral Health Center, the Center for Human Services, Chestnut Health Systems, the Pavilion, One Hope United, the Center for Youth & Family Services, Transitional Center, and Catholic Charities. Dr. Odimayo commented that, “[w]ith the violence [that defendant] has been exposed to, it is not surprising that the peer influences he sought were negative.”

¶ 74 The fourth *Miller* factor was defendant’s “potential for rehabilitation, evidence of rehabilitation, or both.” Dr. Odimayo had asked defendant “if there was ever a time he was doing well before incarceration.” Defendant had answered that “there was never really a time that things were ‘normal’ because he was always in and out of his home, hospitals, foster homes, etc.” Defendant “fe[lt] that his past circumstances ha[d] brought him to this situation.” Dr. Odimayo had found, from his review of records from the Illinois Department of Corrections, that defendant had not been involved in any violent incidents while incarcerated. Dr. Odimayo wrote:

“Based on [defendant’s] disciplinary records, improved emotional state with one anti-anxiety medication, and increased maturity and ability to speak up for himself, I believe [defendant] has a high potential for rehabilitation. The factors I looked for are his reactions to potential triggers. [Defendant] currently stays in an environment that has a lot of triggers and has yet to be involved in any violent situation while incarcerated.”

(Actually, according to the presentence investigation report, prison officials imposed upon defendant six days of disciplinary segregation because on August 6, 2015, he violated Major Rule No. 3 (assault or battery) by getting into a physical altercation with another inmate. Also, on two other occasions, defendant incurred administrative discipline for violating a rule against “horseplay” by wrestling an inmate and assuming a boxing stance with another inmate.)

¶ 75 The fifth, sixth, and seventh *Miller* factors were “the circumstances of the offense, [defendant’s] degree of participation[] and specific role in the offense, including the level of planning by the defendant before the offense[,] and whether [defendant] was able to participate in his defense meaningfully.” Although defendant, by his account, hit Smith three times and insisted he “would never lie about that,” he represented that he “didn’t do the most beating.” In the criminal proceedings against him for Smith’s murder, defendant “did not understand what his lawyer was asking,” Dr. Odimayo wrote. “[L]eading up to the sentencing, his public defender was cussing at him and told him he had no option.” Defendant claimed “he was forced to sign a plea deal of 20 to 60 years” and that “[t]here was no one to interpret anything that occurred to him legally.” Dr. Odimayo believed that defendant’s intellectual limitations, particularly his illiteracy, had made him unfit to stand trial and that, but for those limitations, defendant could have prevailed in his murder case. Dr. Odimayo wrote:

“Due to the circumstances of the crime and the circumstances of *** Smith’s death, [defendant] may have had a chance to prove himself not guilty of the murder. Suppose he had the intellectual ability to participate in his defense meaningfully. In that case, [defendant] may have had the opportunity to speak up for himself or have someone speak to him. In [defendant’s] counseling and hospitalization records, it was reported that he did not speak up for himself in several instances. It was also reported on one of the psychological assessments performed that he had an interpersonal deficiency. I believe [that defendant’s] borderline intellectual functioning and lack of fitness to stand trial evaluation [sic] led [defendant] to agree to a plea deal that he did not understand. *** I believe he cannot still meaningfully participate in his defense without the ability to read and comprehend what he is reading.”

¶ 76 The eighth *Miller* factor was defendant’s “prior juvenile or criminal history.” To Dr. Odimayo, “it was clear that [defendant] was more of a danger to himself than others based on the hospitalization records versus the criminal records.” He noted defendant’s “multiple suicide attempts, self-injurious behavior, and aggressive behaviors.” He opined:

“The level of trauma [that defendant] has experienced, the misdiagnosis, the lack of access to economic means to treat the trauma, and exposure to negative influences led [defendant] to that park that night, highly intoxicated and impulsive. Still, I firmly believe that [defendant], if of sound mind, could have meaningfully participated in his defense and gotten lesser charges because there is no way to measure how much pain each individual inflicted on Mr. Smith nor measure what killed Mr. Smith if he died days later and had previous illnesses.”

¶ 77 On December 19, 2024, the State moved to dismiss the amended petition for postconviction relief. The State raised two reasons for the proposed dismissal. First, because defendant “was sentenced to a *discretionary de facto* life sentence,” instead to of “a *mandatory* life sentence,” *Miller* was unoffended. (Emphases in original.) Second, the “sentencing judge explicitly made reference to the Defendant’s age and mental disability in the factors he considered,” and, therefore, the “record contradict[ed] Defendant’s claims that his age and mental disability were not taken into account.”

¶ 78 On August 18, 2025, the circuit court granted the State’s motion, dismissing the amended petition for postconviction relief on the ground of legal insufficiency.

¶ 79 This appeal followed.

¶ 80 II. ANALYSIS

¶ 81 A. No Waiver of the Postconviction Claim

¶ 82 Defendant would have us decide, in our *de novo* review (see *People v. Sanders*, 2016 IL 118123, ¶ 31), that his amended petition for postconviction relief made a substantial showing of a constitutional violation, and he would have us reverse the dismissal of his amended petition and remand this case for an evidentiary hearing (see *People v. Pendleton*, 223 Ill. 2d 458, 473 (2006)). To clear the way for a reversal and remand, he seeks to allay any concern that, by entering into the plea agreement, he waived his claim that 42 years’ imprisonment violates the proportionate penalties clause as applied to him.

¶ 83 “[A] constitutional right, like any other right of an accused, may be waived.” (Internal quotation marks omitted.) *People v. Ratliff*, 2024 IL 129356, ¶ 21; see *People v. Ackerson*, 37 Ill. 2d 117, 122 (1967); *People v. Garcia*, 2021 IL App (1st) 190026, ¶ 31. Thus, the constitutional right under the proportionate penalties clause to receive a sentence that is not so

disproportionate to the offense as to shock the moral sense of the community (see *People v. Clark*, 2023 IL 127273, ¶ 51) can be waived.

¶ 84 One way a defendant can waive the right to challenge the severity of the sentence is by entering into a negotiated plea agreement, an agreement in which the State made a sentencing concession.

¶ 85 In *People v. Diaz*, 192 Ill. 2d 211, 213 (2000), for example—a case on which the State relies in arguing that defendant has waived his proportionate penalties challenge—the defendant agreed to plead guilty to four counts. In return, the State agreed to do three things: (1) dismiss the remaining 13 charges, (2) refrain from objecting to concurrent sentencing, and (3) refrain from seeking extended-term sentences. *Id.* After sentencing, the defendant moved that the circuit court reduce the sentences “ ‘in light of his age, his minimal criminal history, the lack of injury to the complainants, and his expression of remorse and candor at the sentencing hearing.’ ” *Id.* at 217. The court denied the postsentencing motion. *Id.*

¶ 86 The defendant in *Diaz* appealed, raising, for the first time, some allegedly erroneous evidentiary rulings the circuit court made at the sentencing hearing. *Id.* The State countered that defendant’s appeal should be dismissed for a procedural reason: before moving that the circuit court reduce his sentences, the defendant never filed a motion to withdraw his guilty pleas, as the State understood *People v. Evans*, 174 Ill. 2d 320, 332 (1996), to require. *Diaz*, 192 Ill. 2d at 217-18. Because the State had never agreed, however, to recommend a *specific* sentence to the circuit court in return for the defendant’s guilty pleas, the majority of the appellate panel regarded *Evans* as inapplicable and held that, because of the evidentiary errors of which the defendant complained, he was entitled to a new sentencing hearing. *Id.* at 218.

¶ 87 So, when the case reached the supreme court, the issue was whether, by omitting to file a motion to withdraw his guilty pleas before challenging the sentences, the defendant had waived his challenge to the sentences. See *id.* Disagreeing with the majority in the appellate court, the supreme court found such a waiver. See *id.*

¶ 88 Before going further in our discussion of *Diaz*, we should note, at the outset, a difference between *Diaz* and the present case. *Diaz* was a direct appeal in which the issue was whether, by omitting to file a motion to withdraw his guilty pleas while his case was still before the circuit court, the defendant triggered a waiver of sentencing issues under Illinois Supreme Court Rule 604(d) (eff. Aug. 1, 1992). See *Diaz*, 192 Ill. 2d at 218. The present case, by contrast, is an appeal from a postconviction proceeding, not a direct appeal, and, therefore, Illinois Supreme Court Rule 604(d) (eff. Apr. 15, 2024) is not directly applicable (and, besides, defendant filed a motion to withdraw his guilty plea).

¶ 89 Even so, the supreme court in *Diaz* discussed principles of contract law that underlay the waiver provision in Rule 604(d) (*Diaz*, 192 Ill. 2d at 223-24). We should consider the applicability of that discussion to the present case—whether principles of contract law allow defendant to challenge his sentence.

¶ 90 The supreme court held in *Diaz* that “where a plea agreement between a defendant and the State concern[ed] both the charging and sentencing aspects of defendant’s case”—that is, where the State made a “sentencing concession” in the plea agreement—“the contract principles animating the *Evans* decision appl[ied], because, under [the] circumstances, the sentence [was] premised upon the plea.” *Id.* at 225.

¶ 91 In *Evans*, there were two defendants, one convicted in Marion County and the other convicted in Williamson County, and the supreme court consolidated their appeals. *Evans*, 174 Ill.

2d at 321-24. Each of the two defendants had “entered into a negotiated plea agreement in which the defendant pleaded guilty to certain charges in exchange for the State’s agreement to dismiss other charges and recommend a specific sentence.” *Id.* at 327. The courts accepted the plea agreements and, after the defendants pleaded guilty, the courts imposed the recommended sentences. *Id.* But then the defendants filed postsentencing motions challenging the severity of the sentences and requesting that the sentences be reduced. *Id.* Because the courts had imposed the sentences pursuant to negotiated plea agreements, they declined to reduce the sentences, holding that the defendants should serve the sentences to which the defendants had agreed. *Id.* at 322, 324. (*Evans* appears to equate the prosecutors’ sentencing recommendations with a guarantee that the defendants would receive the recommended sentences.)

¶ 92 The defendants in *Evans* appealed. In the Marion County case, the appellate court held that, under Rule 604(d), the circuit court should have exercised its discretion when considering the defendant’s motion to reduce his sentence. *Id.* at 322. So, the appellate court reversed the circuit court’s judgment and remanded the case with directions that the court make a discretionary decision on the postsentencing motion instead of regarding the motion as foreclosed by the plea agreement. See *id.* In the Williamson County case, the appellate court observed that defense counsel had failed to file a certificate pursuant to Rule 604(d), and, consequently, the appellate court reversed the circuit court’s judgment in part and remanded the case for a new sentencing hearing. *Id.* at 324, 334.

¶ 93 The supreme court allowed the State’s petitions for leave to appeal in the two cases. *Id.* at 322, 324. The issue the consolidated appeals had in common was “how Supreme Court Rule 604(d)” —as it read in the 1990s (see *id.* at 328 (citing Ill. S. Ct. R. 604(d) (eff. Aug. 1, 1992))— “applie[d] to negotiated guilty pleas, as opposed to open guilty pleas.” *Id.* at 324.

¶ 94 To prevent a defendant from being able to unilaterally vitiate a plea agreement that the defendant had made with the State (see *id.* at 330), the supreme court interpreted “the motion-to-reconsider-sentence provisions of Rule 604(d)” as “apply[ing] only to open guilty pleas,” as distinct from negotiated guilty pleas. *Id.* at 332. In other words, “for a defendant to prevail in a challenge to a sentence entered pursuant to a negotiated plea agreement, the defendant [had to] (1) move to withdraw the guilty plea and vacate the judgment and (2) show that the granting of the motion [was] necessary to correct a manifest injustice” (*id.*). In short, the parties would have to be returned to the status quo, as if no plea agreement had come into existence. Otherwise, in violation of contract law principles and fundamental fairness, the defendant would be able to unfairly retain the benefits of the plea bargain while, through a unilateral reduction of the agreed-upon sentence, depriving the prosecution of its own benefit of the plea bargain. *Id.* at 327. As it turned out, then, the circuit courts were correct that, absent a rescission of the plea agreements (or withdrawal of the guilty pleas), the defendants in *Evans* should have to serve the specific sentences to which they had agreed.

¶ 95 However, what if the plea agreement was that, in return for a guilty plea, the defendant would be spared an extended-term sentence but that, instead of receiving a *specific* agreed-upon sentence, as in *Evans*, the defendant would be subjected to the normal sentencing *range*, the nonextended range? To challenge a sentence the circuit court imposed within the agreed-upon *range*, would the defendant have to move to withdraw the guilty plea and vacate the judgment? Another way of putting the question is this: Would it be consistent with the plea agreement—and, hence, fair to the State—for the defendant to challenge, as contrary to law, a sentence that was within the *range* to which the defendant had agreed? This is the question that *Diaz* addressed.

¶ 96 Under the plea agreement in *Diaz*, there was to be no extended-term sentencing. *Diaz*, 192 Ill. 2d at 223. (More precisely, the State promised “that it would not seek extended-term sentences against [the] defendant.” *Id.* at 213. But the supreme court interpreted that promise as meaning “that extended-term sentences would not be imposed.” *Id.* at 223.) Also, the State had agreed it would not seek consecutive sentencing. *Id.* Thus, as a result of the plea agreement between the defendant and the State, the defendant “would not receive a sentence in excess of 30 years.” Without the plea agreement, he would have “faced a maximum extended-term sentence of 60 years,” as well as the possibility that that 60-year term would be served consecutively to other prison terms. *Id.* at 224. The supreme court reasoned:

“Therefore, it is clear that the State made sentencing concessions in entering into the plea agreement with [the] defendant, and that [the] defendant reaped a sentencing benefit from this plea bargain. Under the circumstances presented, [the] defendant’s guilty plea and sentence ‘go hand in hand’ as material elements of the plea bargain (*Evans*, 174 Ill. 2d at 332), and it ‘flies in the face of contract law principles’ (*Evans*, 174 Ill. 2d at 327) to allow [the] defendant to unilaterally modify his agreement under these circumstances while holding the State to its end of the bargain. Therefore, we hold that [the] defendant was required to file a motion to withdraw his plea of guilty in the circuit court, prior to challenging his sentence on appeal.” *Id.*

¶ 97 This reasoning from contract law could be plausibly applied to the present case. It could be argued that, in return for defendant’s guilty plea to count II, the State made a sentencing concession. Defendant would be relieved of the danger of receiving an extended-term sentence of “not less than 60 years and not more than 100 years” (730 ILCS 5/5-4.5-20(a)(2) (West 2014)) on

the theory that his murder of Smith “was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty” (*id.* § 5-5-3.2(b)(2); see *id.* § 5-8-2(a)). Instead, defendant would be guaranteed a nonextended prison term of not less than 20 years and not more than 60 years (see *id.* § 5-4.5-20(a)(1)). By giving up the possibility of an extended-term sentence, which the State thought was merited under the facts of this case, the State accepted a detriment to itself and acceded to a benefit of the bargain for defendant (the argument goes). But this detriment to the State was somewhat tempered by a benefit of the bargain for the State: defendant could receive as much as 60 years’ imprisonment. By now arguing that, under the proportionate penalties clause, the circuit court was forbidden to impose a prison term as long as 42 years, defendant seeks to unilaterally modify the plea agreement (the State claims) by increasing the detriment to the State and the consideration to himself. Defendant would have us hold that not only was a prison term in excess of 60 years off the table, as the plea agreement provided, but, under the proportionate penalties clause, even a prison term of 42 years was off the table. The State argues that by entering into the plea agreement, however, defendant waived any claim that imprisonment for not less than 20 years and not more than 60 years (and any length of imprisonment within that range) was, in his case, legally impermissible. Otherwise, he would be able to unilaterally change the terms of the deal from “a prison term longer than 60 years is forbidden” to “a prison term as long as 42 years is forbidden.” Principles of contract law and fundamental fairness to the State hold him to his supposed waiver of his proportionate penalties claim. See *Evans*, 174 Ill. 2d at 327.

¶ 98 Such an application of *Diaz* might seem fair enough under the terms of *Diaz*. The problem, however, is that a change in statutory law has made *Diaz* distinguishable. The supreme court decided *Diaz* in a statutory context that no longer exists. The supreme court’s analysis in *Diaz* impliedly presupposed a right the circuit court would have had, absent the plea agreement, to

make a finding at the sentencing hearing as to whether a factual predicate to extended-term sentencing had been proven. When the defendant in *Diaz* committed the Class X and Class 2 felonies to which he subsequently pleaded guilty (see *Diaz*, 192 Ill. 2d at 213), section 5-8-2(a)(2) and (4) of the Unified Code of Corrections (730 ILCS 5/5-8-2(a)(2), (4) (West 1994)) provided as follows:

“(a) A judge shall not sentence an offender to a term of imprisonment in excess of the maximum sentence authorized by [s]ection 5-8-1 *** unless the factors in aggravation set forth in paragraph (b) of [s]ection 5-5-3.2 were found to be present. *Where the judge finds that such factors were present*, he may sentence an offender to the following:

(2) for a Class X felony, a term shall be not less than 30 years and not more than 60 years;

(4) for a Class 2 felony, a term shall be not less than 7 years and not more than 14 years[.]” (Emphasis added.)

Thus, under section 5-8-2(a)(2) and (4) as the statute read when the defendant in *Diaz* committed his offenses, extended-term sentencing was purely a sentencing question for the judge to decide.

¶ 99 In the present case, by contrast, when defendant committed first degree murder, section 5-8-2(a) read as follows:

“(a) A judge shall not sentence an offender to a term of imprisonment in excess of the maximum sentence authorized by Article 4.5 of Chapter V for an offense or offenses within the class of the most serious offense of which the

offender was convicted unless the factors in aggravation set forth in Section 5-5-3.2 or clause (a)(1)(b) of Section 5-8-1 were found to be present. *If the pre-trial and trial proceedings were conducted in compliance with subsection (c-5) of Section 111-3 of the Code of Criminal Procedure of 1963 [(725 ILCS 5/111-3(c-5) (West 2014))], the judge may sentence an offender to an extended term as provided in Article 4.5 of Chapter V (730 ILCS 5/Ch. V, Art. 4.5)."* (Emphasis added.) 730 ILCS 5/5-8-2(a) (West 2014).

¶ 100 Section 111-3(c-5) of the Code of Criminal Procedure of 1963 in turn provided as follows:

“(c-5) Notwithstanding any other provision of law, in all cases in which the imposition of the death penalty is not a possibility, if an alleged fact (other than the fact of a prior conviction) is not an element of an offense but is sought to be used to increase the range of penalties for the offense beyond the statutory maximum that could otherwise be imposed for the offense, the alleged fact must be included in the charging instrument or otherwise provided to the defendant through a written notification before trial, submitted to a trier of fact as an aggravating factor, and proved beyond a reasonable doubt.” 725 ILCS 5/111-3(c-5) (West 2014).

Section 111-3(c-5) is a codification of *Apprendi v. New Jersey*, 530 U.S. 466 (2000) (*People v. Jones*, 2016 IL 119391, ¶ 32; *People v. Owens*, 2016 IL App (4th) 140090, ¶ 30), in which the Supreme Court held, “Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt” (*Apprendi*, 530 U.S. at 490). In short, if the aggravating, sentence-

extending factor is something other than the fact of a prior conviction, that factor must be submitted to the trier of fact and proven beyond a reasonable doubt.

¶ 101 That the first degree murder of Smith “was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty” (730 ILCS 5/5-5-3.2(b)(2) (West 2014)) was not an element of count II, the count the circuit court read to defendant at the guilty plea hearing and to which he pleaded guilty. Rather, it was an aggravating factor, other than the fact of a prior conviction, that might have been “considered by the court as [a] reason[] to impose an extended term sentence” of not less than 60 years and not more than 100 years under sections 5-8-2 (*id.* § 5-8-2) and 5-4.5-20(a)(2) (*id.* § 5-4.5-20(a)(2)). *Id.* § 5-5-3.2(b). Before the court could have considered imposing an extended-term sentence upon defendant on the ground that the first degree murder of Smith “was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty” (*id.* § 5-5-3.2(b)(2)), that ground had to be alleged in the indictment, or, before the trial began, the State had to provide defendant written notification of that ground, which then had to be “submitted to a trier of fact as an aggravating factor[] and proved beyond a reasonable doubt.” 725 ILCS 5/111-3(c-5) (West 2014).

¶ 102 It is true that a valid guilty plea “ends the controversy and removes the prosecution’s burden of proof, as it supplies both the evidence and the verdict.” *People v. Rhoades*, 323 Ill. App. 3d 644, 651 (2001). By his guilty plea to count II, though, defendant did not admit that Smith’s murder was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty, nor did the State provide him written notification of its intention to have the trier of fact decide whether Smith’s murder was so accompanied. Given, therefore, defendant’s guilty plea to count II, which did not allege the aggravating factor, and given the lack of any remaining charges (which, pursuant to the plea agreement, the State dismissed), the prosecutor in this case—

unlike the prosecutor in *Diaz* (see 730 ILCS 5/5-8-2(a)(2), (4) (West 1994))—could not have made a good-faith argument at the sentencing hearing that the circuit court should impose an extended-term sentence on defendant.

¶ 103 Our point is that to concede something is to relinquish it, and to relinquish it, one must have it in the first place. The State could not have made a sentencing concession unless, to begin with, the State had a right it could have asserted at the sentencing hearing—a right to give up. By agreeing not to seek imposition of an extended-term sentence on defendant, the State did not make a sentencing concession, for the State never had a right to request, at the sentencing hearing, that the circuit court impose an extended-term sentence. Instead, the State’s promise not to seek an extended-term sentence was merely a corollary to its charging concession, its agreement to dismiss counts I, III, and IV of the indictment. If, after defendant’s guilty plea to count II—which, again, lacked an allegation that Smith’s murder was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty—all the remaining charges in the case were to be dismissed, there would be no remaining murder charges to which the aggravating factor could be appended. It was the agreed-upon disposition of the charges, rather than a sentencing concession in the true sense, that removed the possibility of an extended-term sentence.

¶ 104 Defendant’s guilty plea to count II would truly be, as the circuit court described it at one point in its admonitions to defendant, an “open plea.” The State did not object to that description, and describing the proposed guilty plea as an “open plea” signified that there would be no waiver of sentencing issues. See *Diaz*, 192 Ill. 2d at 218. Because a waiver is, by definition, “a *knowing* relinquishment of a right,” a defendant cannot be misled into a waiver. (Emphasis added and internal quotation marks omitted.) *People v. Whitfield*, 217 Ill. 2d 177, 187 (2005).

¶ 105 To recap, then, a change in statutory law makes *Diaz* distinguishable. Because the plea agreement lacked a sentencing concession by the State, defendant is free to claim, in this postconviction proceeding, that his sentence of 42 years’ imprisonment violates the proportionate penalties clause as applied to him—or, as he claims, that the sentence is “cruel, degrading, or so wholly disproportionate to [his] offense as to shock the moral sense of the community” (internal quotation marks omitted) (*People v. Hilliard*, 2023 IL 128186, ¶ 20). He has not waived that claim.

¶ 106 B. The Legal Sufficiency of the Amended Petition

¶ 107 A postconviction proceeding in the circuit court can have as many as three stages.

¶ 108 At the first stage, within 90 days after the petition is filed and docketed, the circuit court decides, on its own initiative, without any input by the State, whether the petition is “frivolous or *** patently without merit” (725 ILCS 5/122-2.1(a)(2) (West 2018)). See *People v. Dupree*, 2018 IL 122307, ¶ 28. If the court decides that the petition meets that description, the court summarily dismisses the petition by a written order setting forth “findings of fact and conclusions of law.” 725 ILCS 5/122-2.1(a)(2) (West 2018). If the court does not summarily dismiss the petition within the 90-day period, the postconviction proceeding advances to the second stage. See *Dupree*, 2018 IL 122307, ¶ 28.

¶ 109 The circuit court summarily dismissed defendant’s *pro se* petition for postconviction relief. Defendant appealed, however, and the appellate court reversed the summary dismissal and remanded the case for further postconviction proceedings. *Chambers*, 2021 IL App (4th) 190151, ¶ 1. Consequently, the *pro se* petition advanced to the second stage, at which defendant, through his appointed counsel (see 725 ILCS 5/122-4 (West 2024)), filed an amended petition.

¶ 110 At the second stage of the postconviction proceeding, the State must either answer the petition or move for dismissal of the petition. See *id.* § 122-5; *Dupree*, 2018 IL 122307, ¶ 28. On remand in this case, the State moved for dismissal of defendant’s amended petition for postconviction relief, and the circuit court granted the motion. Defendant now appeals that dismissal.

¶ 111 We review the second-stage dismissal *de novo*. See *Dupree*, 2018 IL 122307, ¶ 29. The question, which we decide independently (without deference to the circuit court’s ruling), is whether, instead of granting the State’s motion to dismiss the amended petition, the court should have advanced the amended petition to the third and final stage of the postconviction proceeding, the stage at which the court would have held an evidentiary hearing on the amended petition. See *id.* ¶ 28.

¶ 112 “A postconviction petitioner is entitled to an evidentiary hearing only when the allegations in the petition supported by ‘affidavits, records, or other evidence’ (725 ILCS 5/122-2 (West 2014)) make a substantial showing of a deprivation of rights under either the United States or Illinois Constitutions or both.” *Id.* The supreme court has explained, “[T]he ‘substantial showing’ of a constitutional violation that must be made at the second stage [citation] is a measure of the legal sufficiency of the petition’s well-pled allegations of a constitutional violation, *which if proven* at an evidentiary hearing, would entitle [the] petitioner to relief.” (Emphasis in original.) *People v. Domagala*, 2013 IL 113688, ¶ 35.

¶ 113 As the emphasized phrase suggests, the allegations in the petition need not be proven at the second stage of the postconviction proceeding, but, rather, the purpose of the second stage is merely to determine whether the defendant is entitled to an evidentiary hearing—whether the petition should be advanced to the third stage (*People v. Coleman*, 183 Ill. 2d 366, 381 (1998)).

To be sure, “the allegations in the petition must be supported by the records in the case, or by accompanying affidavits, unless the absence of [the] same is sufficiently explained” (*People v. Evans*, 37 Ill. 2d 27, 30 (1967)), but providing documentary support for the allegations in the petition is not the same as proving them or eliminating factual issues. We leave any factual issues or assessments of credibility for determination at the third stage. See *People v. Smith*, 2024 IL App (1st) 210496-U, ¶ 30. At the second stage, we liberally construe the petition in the defendant’s favor and in the light of the record (*Coleman*, 183 Ill. 2d at 382), and “all well-pleaded facts that are not positively rebutted by the trial record are to be taken as true” (*Pendleton*, 223 Ill. 2d at 473). Ill-pleaded allegations, in contrast to “well-pleaded facts,” are “nonfactual and nonspecific assertions which merely amount to conclusions,” and such conclusions do not warrant an evidentiary hearing. *People v. Rissley*, 206 Ill. 2d 403, 412 (2003).

¶ 114 Thus, in a nutshell, a substantial showing of a constitutional violation must be made by the well-pleaded factual allegations in the petition itself, allegations we take as true if (1) they are not positively refuted by the record and (2) they are “support[ed],” though not necessarily proven, by “affidavits, records, or other evidence” “attached” to the petition, or, if such evidence is not attached, the petition explains why they “are not attached” (725 ILCS 5/122-2 (West 2024)).

¶ 115 We begin, then, with the well-pleaded allegations of fact in the amended petition itself. We say “the amended petition itself” because, in Dr. Odimayo’s evaluation, there are plenty of assertions, beliefs, and opinions—not only psychological opinions but also legal opinions and opinions on trial strategies that might have been pursued—that are not in the amended petition. Also, we note that, in his brief and reply brief, defendant argues, on the authority of *Dupree*, 2018 IL 122307, ¶ 29, that the clinical opinions of Dr. Odimayo must be taken as true. But that is not exactly what the supreme court says in the cited paragraph of *Dupree*. Rather, when the supreme

court says in *Dupree* that “any allegations not affirmatively refuted by the record must be taken as true,” it means allegations in the “postconviction petition”—the thing that is being “examine[d]” for “legal sufficiency.” *Id.* An attachment to a petition, such as Dr. Odimayo’s evaluation, is not a supplemental petition but is merely supporting evidence for allegations in the petition. It is the allegations in the petition, not the attachments, that must do the pleading work and that are scrutinized for legal sufficiency. An attachment is not a backup pleading. To be sure, at the second stage, we refrain from weighing credibility (see *Smith*, 2024 IL App (1st) 210496-U, ¶ 30), including the credibility of attachments. However, it is the petition itself that must supply the well-pleaded factual allegations that, taken as true (unless the record affirmatively refutes them), would make out a constitutional violation. See 725 ILCS 5/122-2 (West 2024); *Domagala*, 2013 IL 113688, ¶ 35.

¶ 116 So, we examine the amended petition itself for well-pleaded factual allegations that show a constitutional violation. Three paragraphs in the amended petition seem to hold out the most promise in that respect. The first paragraph is paragraph 6, which states:

“6. [Defendant] presents a forensic evaluation conducted by Dr. *** Odimayo, which concludes that while [defendant] was chronologically 18 at the time of the offense, his intellectual developmental capacities were substantially below his chronological age. [Citation.] Assessments, including the Wechsler Intelligence Scale and the Stanford-Binet Intelligence Scale, confirmed borderline intellectual disability.”

Dr. Odimayo concluded what the circuit court already found at the sentencing hearing: that defendant had an intellectual disability. In fact, the court designated that intellectual disability as a mitigating factor and accounted for that disability in the sentence.

¶ 117 Second, paragraph 10 of the amended petition alleges, “Dr. Odimayo’s evaluation further reveals that [defendant] suffered from PTSD due to significant childhood trauma, which made him more susceptible to impulsive behavior and peer pressure. [Citation.] This diagnosis, combined with [defendant’s] cognitive impairments, should have been considered during sentencing.” Paragraph 10 appears to suggest that, in Dr. Odimayo’s opinion, only PTSD made defendant impulsive and susceptible to peer pressure. The record, however, affirmatively refutes that suggestion. At a page of Dr. Odimayo’s evaluation that paragraph 10 cites, Dr. Odimayo opines, “In being under the influence of drugs, alcohol, and peers, [defendant] was bound to make more impulsive behaviors based on his PTSD diagnosis.” Thus, in Dr. Odimayo’s opinion, it was not only PTSD but also drugs, alcohol, and peers that increased defendant’s impulsiveness. Paragraph 10 further suggests that, in determining a sentence, the circuit court did not “consider[]” defendant’s PTSD and cognitive impairments. The record likewise affirmatively refutes that suggestion. Defendant’s mother, Tammy, testified at the sentencing hearing that defendant had been diagnosed with PTSD, and before pronouncing the sentence, the court stated it had considered the testimony of defendant’s witnesses. The court also explicitly considered defendant’s cognitive impairments, intoxication on the night of the offense, and subjection to peer pressure. The court specifically found that those factors were mitigating. The court also explicitly considered the defense exhibits, including the letter from Fletcher, in which she wrote that she had always found defendant “to be a young man who was easily swayed by his peers.” Thus, we do not take as true the allegation or implication that the court failed to “consider[]” all those factors.

¶ 118 Third, paragraph 11 of the amended petition asserts that, “[b]ased on [defendant’s] disciplinary records, improved emotional state while on anti-anxiety medication, and increased maturity and ability to speak up for himself, [defendant] has a high potential for rehabilitation.”

That defendant “has a high potential for rehabilitation” is not a well-pleaded fact but, instead, is a conclusion, which we do not take as true. See *Rissley*, 206 Ill. 2d at 412; *Coleman*, 183 Ill. 2d at 381.

¶ 119 This is not to deny that defendant was still young when he committed the offense, that young adults typically change as they grow older, and that the sentence of 42 years’ imprisonment is tantamount to a life a sentence (see *People v. Buffer*, 2019 IL 122327, ¶ 40). It does not follow, though, that the sentence is cruel or degrading. A sentence is cruel or degrading if it is “a cruel or degrading punishment not known to the common law[] or is a degrading punishment which had become obsolete in the State prior to the adoption of its constitution.” (Internal quotation marks omitted.) *People v. Miller*, 202 Ill. 2d 328, 339 (2002). Defendant has not shown that sentencing a legal adult to life imprisonment for first degree murder meets that description.

¶ 120 Although life imprisonment could be regarded as slamming the door on the possibility of rehabilitation, “[a] sentencing court is not required to give greater weight to [a] defendant’s rehabilitative potential than to the seriousness of the offense.” *People v. Jackson*, 2014 IL App (1st) 123258, ¶ 53. “In fact, the seriousness of an offense is considered the most important factor in determining a sentence.” *Id.*

¶ 121 Under the societal standards of “elemental decency and fairness which shape the moral sense of the community,” as we understand those standards, the circumstances of Smith’s murder would be viewed as especially egregious. (Internal quotation marks omitted.) *Miller*, 202 Ill. 2d at 339. It seems unlikely that most citizens of Bloomington-Normal would recoil in horror at the sentence of 42 years’ imprisonment—that they would be *shocked* by the sentence. To “shock the moral sense of the community” (internal quotation marks omitted) (*id.*), a sentence would have

to do more than cause one to have reservations whether the sentence adequately reflected the mitigating factors or whether the crime was serious enough for such a severe punishment. The phrase “shock the moral sense” conveys the idea of sudden and violent moral revulsion, and we have difficulty imagining that the community would deem the sentence to be “so wholly disproportioned to the offense” as to be *shocking* (internal quotation marks omitted) (*id.*).

¶ 122 More likely, the community would be morally shocked that defendant and his codefendants had entertained themselves by preying on the weak. Defendant perceived that Smith was a “homeless guy.” Generally, the homeless inspire compassion because they are in perilous circumstances and because having no home—living on the streets or, if one is lucky, in temporary accommodations—tends to take a toll on a person physically. It is well-known that the homeless commonly suffer from debilitating conditions, such as mental illness, alcoholism, and drug addiction. Smith’s act of lying down on the ground suggested he possibly was in a fragile condition. But defendant and his codefendants decided to beat him up for the sheer fun of it.

¶ 123 Although Dr. Odimayo wrote in his evaluation, that, given defendant’s “borderline intellectual disability,” he did not “believe [that defendant] could consider the severity of his offense,” the record conclusively states otherwise. In his guilty plea, defendant judicially admitted having “know[n],” at the time, “that such acts created a strong probability of great bodily harm to *** Smith.” See *People v. LaPointe*, 2018 IL App (2d) 160432, ¶ 55 n.7. When Smith, prone on the ground, suddenly stopped screaming after Davis-Dickson jumped on his rib cage, it should have been evident that Smith possibly, at that point, had sustained a serious injury. Nevertheless, when Smith picked himself up off the ground and began staggering out of the park, defendant and his codefendants converged on him again and beat him further, and defendant stole his meager snack. Then defendant and his codefendants beat up other randomly chosen innocent people. We

doubt it would be shocking to the moral sense of the community if an approximately midrange punishment were imposed for ganging up on a possibly ailing homeless man and fatally beating him for nothing more than the amusement of inflicting pain—especially if the perpetrator (1) was on probation when committing this atrocity and (2) had been put on probation, and violated that probation, numerous times in the past.

¶ 124 The circuit court tried to walk in defendant's shoes, so to speak, blood-spattered though they were. Defendant's youth, intellectual limitations, intoxication, subjection to influence by his codefendants, and troubled childhood all had, apparently, a palpable effect on the court's determination of the sentence, which was only two years more than a midrange punishment for first degree murder. We are unconvinced that the community would be appalled that defendant received 42 years' imprisonment for his unprovoked murder of a homeless man—a murder he committed for sport while he was on probation and which he followed up with recreational beatings of other randomly chosen innocent people. The mitigating factors should, and did, count, but the aggravating factors should count, too. We hold that if the well-pleaded allegations of the amended petition for postconviction relief were proven, they would not entitle defendant to relief under the proportionate penalties clause of the Illinois Constitution.

¶ 125 III. CONCLUSION

¶ 126 For the reasons stated, we affirm the circuit court’s judgment.

¶ 127 Affirmed.

People v. Chambers, 2026 IL App (4th) 250934

Decision Under Review: Appeal from the Circuit Court of McLean County, No. 14-CF-791; the Hon. William A. Yoder, Judge, presiding.

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