SUPREME COURT OF ILLINOIS

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May 29, 2024

In re: People State of Illinois, respondent, v. Quovadus Mahomes, petitioner. Leave to appeal, Appellate Court, First District. 130475

The Supreme Court today DENIED the Petition for Leave to Appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on 07/03/2024.

Rochford, J., took no part.

Very truly yours,

Cynthia A. Grant

Clerk of the Supreme Court

APPENDIX D

at the time he did this when he spoke with the police, and he did not take any of those opportunities.

THE COURT: Well, I'm not going to go there about faulting him for what he said to the police while he was Mirandized. What he didn't say to the police, I'm not considering in any evidentiary scheme for purposes of this trial or for making my findings.

MS. BOWDEN: This defendant denied to the police that he had a prior beef with any of these people that he shot at. That was a previous denial of what he testified to here in court.

Judge, that's because he didn't.

We're asking that you find the defendant guilty of the first degree murder of Devon Common, of the attempt first degree murder of Phil Durham, of the attempt first degree murder of Tim Harris, and of the attempt first degree murder of Selasie Blandon.

And as you recall, Phil couldn't identify this defendant because Phil was lying on the ground curled up in a ball as the defendant stood over him and attempted to fire that gun into his body, and all he heard was click, click, click.

Judge, his intent was to kill.

THE COURT: The Court heard the evidence that was

presented at this trial. I have reviewed the indictment, which comes to this court by way of 75 counts. I don't necessarily fault the Government for charging Mr. Mahomes the manner in which they did, with an abundance of caution, every possible theory of prosecution was pursued here.

I listened carefully to the evidence. It is undisputed that Mr. Mahomes who was the shooter in this case, that he was the only shooter in this case, the only person that had a gun at that time in this case. That Devin Common was shot dead by Mr. Mahomes, that Mr. Durham, Mr. Blandon were wounded by Mr. Mahomes. Mr. Harris was shot at but not hit by Mr. Mahomes.

The question becomes what was Mr. Mahomes state of mind mental state, whether he had any justification under the law for the shooting that took place.

I listened carefully to the evidence. Mr. Durham was aggressively and artfully cross-examined by Mr. Wolf about whether he's in a gang, or had been in a gang, or was involved in any gang activity, particularly, involved in the encounter, somewhat of a violent encounter or threat against Mr. Mahomes. Mr. Durham denied that up and down.

Mr. Mahomes talked about it as well, when he

testified, and he chose to testify, I find Mr. Durham to be far more credible and compelling on those issues. I don't believe there was any prior incident that was described by Mr. Mahomes that ever took place.

Mr. Durham, Mr. Blandon, Mr. Harris, these are older men. They're not in his generation. And to attribute what Mr. Mahomes said they were about, I did not find to be at all supported by the evidence, and I listened carefully to all the witnesses, and I did not find that to be at all a suggestion within the realm of reason.

What did happen though -- and I will be careful to talk specifically about Mr. Mahomes. I'm not suggesting that he is responsible for all of the mayhem that may be going on in this community at this time and has been going on for all too many number of years now. But this is a case where Mr. Mahomes says that he was out selling drugs, he went from one neighborhood where he lived to another neighborhood to sell drugs, and he was armed. He saw some people on the street. He acknowledged that he was in the neighborhood, that the gang membership in the gang structure is different than his own. He made assumptions about Mr. Durham, Mr. Blandon, Mr. Harris. I believe his assumptions were dead

bang wrong. He just went after these people because they were there. He was brazenly without any justification at all shooting up the neighborhood, wherever the bullets were going to fly.

I have looked at this indictment, and I do not find any justification under the law. I reject specifically Mr. Mahomes' suggestion that he was acting in some kind of self-defense because he was afraid that he was being followed by the people. He went there with the gun. They were unarmed. All they were doing was talking with each other and getting a light for a cigarette for someone who needed a light, and they all got shot at, and Mr. Common got killed.

The indictment again comes to us by way of 75 counts. There is quite of bit of merger that has to take place. I will make the follow findings and the counts that merge will still be defined by the four counts that I am going to deal with right now under the one act, one crime doctrine.

I find that the Government has met their burden of proof as to Count 18 of this indictment, and that Mr. Mahomes committed first degree murder, in that he knowingly shot and killed while armed with a firearm, Devin Common, knowing that this act created a strong

probability of death or great bodily harm to Devin Common, and during the commission of the offense he personally discharged a firearm that proximately caused death. He's found guilty of that an all of the counts of the indictment that merge into that.

I also find him guilty on Counts Nos. 73, 74 and 75, aggravated battery with a firearm, to be, regarding the injuries that took place to Selasie Blandon, guilty of aggravated battery in Count 74, aggravated battery with a firearm, talking about the injuries suffered by Phillip Durham, guilty on Count 75, aggravated discharge of a firearm by shooting at Timothy Harris, although fortunately not wounding him. He is found guilty of those counts. And those counts of aggravated battery and aggravated discharge that merge into the murder counts of the indictment, of course, merger applies, but it will all go down. The murder count that I will enter judgment on is Count 18 as described.

I will order a pre-sentence investigation. Any bonds set are revoked.

Mr. Wolf, if you want more than 30 days for the filing of pose post-trial motions I will extend the filing period for you beyond 30 days.

You can pick a day of your liking.

MR. WOLF: May I have a moment?

THE COURT: Yes, you may.

So I'm clear on the record, this is a 75 count indictment. I am not finding him guilty of the attempt first degree murders of the people that were shot or shot at, because I'm not sure that there was evidence here about specific intent to kill. There certainly was evidence that he was shooting at them without justification.

MR. WOLF: Judge, October 25th I think works for all counsel.

THE COURT: October 25th. 30 days is extended.

October 25th. He is remanded to the custody of the Sheriff.

(Which were all the all the proceedings had in the above-entitled cause on said date.)

APPENDIX A

2024 IL App (1st) 230324-U

FOURTH DIVISION
Order filed: January 18, 2024

No. 1-23-0324

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

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. QUOVADUS MAHOMES, Defendant-Appellant.	) Appeal from the) Circuit Court of Cook) County.)) No. 13 CR 4269)) Honorable) James B. Linn,) Judge, presiding.

JUSTICE HOFFMAN delivered the judgment of the court.
Presiding Justice Rochford concurred in the judgment.
Justice Ocasio III dissented.

ORDER

¶ 1 *Held*: We affirmed the defendant's resentencing on remand, finding that it was not an abuse of discretion.

¶ 2 Following a bench trial, defendant, Quovadus Mahomes, was convicted of first degree murder, two counts of aggravated battery with a firearm, and aggravated discharge of a firearm for

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offenses committed when he was 17 years old. He was sentenced to 30 years' incarceration for the murder, two terms of 7 years for the aggravated batteries, and a 5-year term for aggravated discharge of a firearm. The trial court ordered the two aggravated battery sentences to run consecutive to the murder sentence and each other and ordered the aggravated discharge sentence to run concurrently for an aggregate sentence of 44 years' imprisonment in the Department of Corrections.

¶ 3 On direct appeal, this court affirmed the defendant's convictions, but finding that the imposition of a 44-year sentence for crimes the defendant committed as a juvenile constituted a *de facto* life sentence and violated the eighth amendment of the United States Constitution (U.S. Const. amend. VIII), we vacated the defendant's sentence and remanded the matter for resentencing. *People v. Mahomes*, 2020 IL App (1st) 170895, ¶¶ 20, 24, 25, 27,

¶ 4 Following remand, the trial court held a sentencing hearing and reimposed the same individual sentences but ordered that the two 7-year sentences for aggravated battery and the 5-year sentence for aggravated discharge of a firearm run concurrently with each other and consecutive to the 30-year murder conviction for an aggregate sentence of 37 years' imprisonment. On appeal, the defendant argues that the trial court abused its discretion when it sentenced him to the "same sentences" despite the presence of significant new mitigation and no new aggravation. For the reasons that follow, we affirm.

¶ 5 At the sentencing hearing conducted after remand, the parties agreed to waive the preparation of a new presentencing investigation (PSI). In aggravation, the State presented the testimony of Kimberly Common, the murder victim's mother, and published a letter she had written to the court. In mitigation, the defendant presented the testimony of Angela Swanagan, the defendant's mother. Swanagan described the defendant's childhood and testified she forced him to fight other children

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because she did not want him to be a "punk" or a "sissy." Swanagan further testified that the defendant's teachers recommended special education classes for him but that she resisted. Swanagan opined that she had "created a monster" and blamed herself for the defendant's upbringing. The defendant also presented several letters from family members who stated they missed the defendant and that he had matured and taken responsibility for his actions while in prison. Finally, the defendant introduced as an exhibit a mitigation packet which had previously been submitted to the court.

¶ 6 The State argued that, under the statutes in effect at the time of resentencing, the defendant would be eligible for parole after 20 years. The State asserted that the 40-year sentence limitations of *People v. Buffer*, 2019 IL 122327, did not apply to defendant's resentencing. The State took the position that the trial court should reimpose the 44-year aggregate sentence.

¶ 7 The defendant argued that he should be resentenced taking into consideration the factors listed in section 5-4.5-105 of the Unified Code of Corrections (Code of Corrections) (730 ILCS 5/5-4.5-105 (West 2022)). The defendant then highlighted the factors in section 5-4.5-105 he deemed most relevant. The defendant concluded that the minimum sentence of 26 years would be appropriate.

¶ 8 After hearing arguments in aggravation and mitigation, the trial court heard the defendant speak in allocution. The trial court found:

> "So I am still finding that what happened here was – the crime itself, I am having trouble finding any mitigating factors here to lessen the severity of what Mr. Mahomes did, going down to the neighborhood to sell drugs in an unfamiliar place, armed with a weapon, using it so quickly, knowing that Philip, who was somebody was hit, did know what was going on.

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That is still troubling. And that is something that happened and something that -- that is the person that he is.

With that said, I do find -- I have heard more mitigation than before."

Ultimately, as stated earlier, the trial court sentenced the defendant to 30 years' incarceration for the murder, 7 years for each of the aggravated battery convictions, and 5 years for aggravated discharge of a firearm and ordered that the two 7-year sentences and the 5-year sentence run concurrent to each other and consecutive to the 30-year murder sentence for an aggregate sentence of 37 years' incarceration. The trial court concluded: "So it's 37 years instead of 44." The defendant moved to reconsider the sentence and the trial court denied the motion. This appeal followed.

¶ 9 The defendant contends that the trial court abused its discretion when it imposed the same sentences on him despite the presence of significant new mitigation and no new aggravation. A trial court has broad discretion in sentencing a defendant. *People v. Streater*, 2023 IL App (1st) 220640, ¶ 73 (citing *People v. Stacey*, 193 Ill. 2d 203, 209 (2000)). We will reverse only where the trial court has abused that discretion. *Id.* Each of the defendant's sentences are within the applicable statutory sentencing limits and are, therefore, presumed proper. See *People v. Webster*, 2023 IL 128428, ¶ 21.

¶ 10 When the trial court imposes a sentence, it is constitutionally bound to impose a sentence that achieves a balance between the seriousness of the offense and the defendant's rehabilitative potential. *People v. Knox*, 2014 IL App (1st) 120349, ¶ 46; Ill. Const. 1970, art. 1, § 11. Factors to be considered in striking this balance include " 'the nature and circumstances of the crime, the defendant's conduct in the commission of the crime, and the defendant's personal history, including his age, demeanor, habits mentality, credibility, criminal history, general moral character, social environment, and education.' " *Knox*, 2014 IL App (1st) 120349, ¶ 46 (quoting *People v.*

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Maldonado, 240 Ill. App. 3d 470, 485-86 (1992)). When the defendant is a juvenile the Code of Corrections requires the trial court to consider additional factors including:

> "(1) the person's age, impetuosity, and level of maturity at the time of the offense, including the ability to consider risks and consequences of behavior, and the presence of cognitive or developmental disability, or both, if any;
>
> (2) whether the person was subjected to outside pressure, including peer pressure, familial pressure, or negative influences;
>
> (3) the person's family, home environment, educational and social background, including any history of parental neglect, physical abuse, or other childhood trauma;
>
> (4) the person's potential for rehabilitation or evidence of rehabilitation, or both;
>
> (5) the circumstances of the offense;
>
> (6) the person's degree of participation and specific role in the offense, including the level of planning by the defendant before the offense;
>
> (7) whether the person was able to meaningfully participate in his or her defense;
>
> (8) the person's prior juvenile or criminal history; and
>
> (9) any other information the court finds relevant and reliable, including an expression of remorse, if appropriate. However, if the person, on advice of counsel chooses not to make a statement, the court shall not consider a lack of an expression of remorse as an aggravating factor." 730 ILCS 5/5-4.5-105(a) (West 2022)

However, the most important sentencing factor remains the seriousness of the offense and the trial court is not required to assign more weight to the defendant's potential for rehabilitation than the seriousness of the offense. *People v. Cruz*, 2019 IL App (1st) 170886, ¶ 51. Although there are nine

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additional factors identified in section 5-4.5-105(a) to be considered when a juvenile is sentenced, a trial court is not required to analyze each factor on the record before sentencing the defendant. *People v. Marks*, 2023 IL App (3d) 200445, ¶ 61. When mitigating factors are presented to the trial court, we presume it properly considered those factors, unless the record demonstrates the court did not. *Id.*

¶ 11 The record in this case, including the evidence adduced at the defendant's trial, the PSI, the testimony of Swanagan, the letters from the defendant's family members, the defendant's mitigation packet, and the arguments of counsel in mitigation and aggravation, reflects that the factors to be considered pursuant to Section 5-4.5-105(a) of the Code of Corrections were before the court during resentencing. The trial court acknowledged that it had received additional mitigation evidence. However, it also found that the additional mitigation did not outweigh the seriousness of the offense. The trial court was under no obligation to reduce the sentence on remand. See *People v. Flanery*, 243 Ill. App. 3d 759, 761 (1993) ("when a sentence is vacated on appeal and the cause is remanded for a new sentencing hearing, that action should not be construed as a mandate to the trial judge to impose a lesser sentence on remand"). The trial court's comments make it clear that it did not feel the additional mitigation was sufficient to warrant a reduction in the defendant's sentence. Although additional mitigation was presented, the trial court was in the best position to determine the weight to accord this mitigation in light of the seriousness of the offenses. Therefore, we cannot conclude that the trial court abused its discretion in sentencing the defendant.

¶ 12 For the foregoing reasons, we affirm the judgment of the circuit court.

¶ 13 Affirmed.

¶ 14 JUSTICE OCASIO III, dissenting:

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¶ 15 I respectfully dissent from the majority's decision and for the following reasons would remand the matter for a new sentencing hearing.

¶ 16 Quovadus Mahomes was a seventeen-year-old young man who committed a violent crime. He was found guilty of murder, aggravated battery by discharge of a firearm—two counts—and aggravated discharge of a firearm. The trial court originally sentenced him to 30 years on the murder, 7 years on each of the aggravated batteries, and 5 years on the aggravated discharge. It ran the murder and aggravated battery sentences consecutively, resulting in an aggregate term of 44 years in the Illinois Department of Corrections. On direct appeal, we confirmed his convictions, but we recognized that the 44-year aggregate term amounted to a *de facto* life sentence under our supreme court's decision in *People v. Buffer*, 2019 IL 122327. *People v. Mahomes*, 2020 IL App (1st) 170895, ¶ 20. Because the trial court had not given full consideration to the factors identified in *People v. Holman*, 2017 IL 120655, ¶ 46, *overruled by People v. Wilson*, 2023 IL 127666, ¶ 42, we found that the aggregate sentence was unconstitutional, and we vacated Mahomes's sentences and remanded for a new sentencing hearing. *Mahomes*, 2020 IL App (1st) 170895, ¶¶ 21-25.

¶ 17 There is no dispute that, at the re-sentencing hearing, Mahomes presented mitigation evidence that had not been proffered at his original sentencing hearing, primarily in the form of a new mitigation report explaining how a combination of parental misguidance and abandonment, the loss of his best friend to gun violence, and the kind of impulsive and reactionary behavior typical of juveniles contributed to his decision to pull out a gun he was carrying and fire several shots at a group of people walking his direction that included a man in a rival gang who had pointed a gun at him on the street two weeks earlier. Despite this new mitigation evidence, the trial court imposed exactly the same sentences that it had before on the individual convictions: 30 years for murder, 7 years for each aggravated battery, and 5 years for aggravated discharge. The only difference is that the trial court decided that the aggravated-battery and aggravated-discharge sentences would be served concurrently, albeit consecutive to the murder sentence, resulting in an aggregate term of 37 years.

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¶ 18 Mahomes argues that, in light of the new mitigation, the trial court abused its discretion by imposing the same sentences that it had before. I do not dispute that trial courts generally do not have a duty to reduce sentences on remand. *Supra* ¶ 11 (citing *People v. Flanery*, 243 Ill. App. 3d 759, 761 (1993)). But Mahomes relies on *People v. Willis*, 231 Ill. App. 3d 1056 (1992), where the court found that the trial court erred by imposing the same sentence after a new sentencing hearing on remand. The majority has chosen not to address *Willis*, but I find it to be persuasive. In *Willis*, the defendant's original 10-year sentence for voluntary manslaughter had been vacated on appeal because the trial court had improperly relied on the death of the victim, which was inherent in the offense, as an aggravating factor. *Id.* at 1057. At the re-sentencing, the defendant presented new mitigating evidence of his conduct following the original sentencing hearing tending to show that he had a strong potential for rehabilitation. *Id.* at 1060-61. Despite this new mitigating evidence, the trial court once again imposed a 10-year sentence. *Id.* at 1058-60. On appeal, the court found that the trial court's failure to account for the new evidence in mitigation was an abuse of discretion. *Id.* at 1060-61. It chose to exercise its authority to reduce the sentence to 7 years rather than remanding for a third sentencing hearing. *Id.* at 1061.

¶ 19 I do not see a meaningful distinction between this case and *Willis*. Here, as in *Willis*, significant new mitigating evidence was before the trial court at the re-sentencing hearing. Here, as in *Willis*, the court sentenced Mahomes to the same terms of imprisonment as before, indicating that it had not taken that mitigation into account. I recognize that the trial court changed the consecutive-sentence structure in a way that resulted in a reduction in the aggregate term from 44 to 37 years. But, with the notable exception of evaluating whether consecutive sentences result in a *de facto* life sentence, our supreme court has consistently taught "that consecutive sentences do not constitute a single sentence and cannot be combined as though they were one sentence for one offense." *People v. Carney*, 196 Ill. 2d 518, 530 (2001); but see *People v. Reyes*, 2016 IL 119271, ¶¶ 8-10 (aggregating sentences imposed for offenses committed during same course of conduct and concluding that aggregate sentence amounted to *de facto* life). Applying that principle here, the trial court did not

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reduce any of Mahomes's sentences in light of the new mitigation. As in *Willis*, I believe that was an abuse of discretion.

¶ 20 Additionally, I do not agree with the majority that the record shows that the trial court gave adequate consideration to the youth-related sentencing factors that it was required to by statute. See 730 ILCS 5/5-4.5-105(a) (West 2022). I find especially worrying the judge's declaration at the re-sentencing hearing that the offense committed by Mahomes when he was a teenager forever defined who he was as a person:

> "[THE COURT:] So I am still finding that what happened here was—the crime itself, I am having trouble finding any mitigating factors here to lessen the severity of what Mr. Mahomes did, going down to the neighborhood to sell drugs in an unfamiliar place, armed with a weapon, using it so quickly, knowing that Philip, who was somebody [that] was hit, did know what was going on. That is still troubling. And that is something that happened and something that—that is the person that he is."

These remarks run contrary to the core lesson on which recent juvenile-sentencing reforms, including section 5-4.5-105, are based, which is that offenses committed by juveniles are *not* emblematic of who they are or who they will become as they grow into adulthood. For most juvenile offenders, such conduct "reflects unfortunate yet transient immaturity." *Roper v. Simmons*, 543 U.S. 551, 573 (2005). It is only "the rare juvenile offender whose crime reflects irreparable corruption." *Id.* I will not reiterate the brain science of adolescents that suggest they lack the ability to consider risks and consequences. Suffice it to say that the fundamental differences between the developed mind of an adult and the developing mind of a juvenile "diminish the penological justifications" for using sentences to exact retribution on juvenile offenders and to incapacitate them for decades. *Miller v. Alabama*, 567 U.S. 460, 472-73 (2012). Retribution and incapacitation were at the forefront of this sentencing hearing.

¶ 21 The Convention on the Rights of the Child provides that "[t]he *** imprisonment of a child *** shall be used only as a measure of last resort and for the shortest appropriate period of

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time." Convention on the Rights of the Child art. 37(b), Nov. 20, 1989, 1577 U.N.T.S. 3. The convention also recognizes "the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner *** which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society." *Id.* art. 40 ¶ 1. The United States has not ratified the convention, but our law nevertheless incorporates these principles. *E.g. Miller*, 567 U.S. 460; Ill. Const. 1970, art. I, § 11 (requiring sentences to be "determined *** with the objective of restoring the offender to useful citizenship"); 730 ILCS 5/5-4.5-105 (West 2022). As Bryan Stevenson has said, "Each of us is more than the worst thing we've ever done." Bryan Stevenson, *Just Mercy* 17-18 (trade paperback ed. 2015). That maxim applies with extra force to juvenile offenders. Because the record shows that the trial court did not look past the worst thing that Quovadus Mahomes has ever done, I would find that his sentences are the product of an abuse of discretion.

¶ 22 For these reasons, I respectfully dissent.

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APPENDIX B

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

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

PEOPLE OF THE STATE OF ILLINOIS,	)	
Plaintiff,	)	
vs.	)	Case No. 13 CR 04269-01
QUOVADUS MAHOMES,	)	
Defendant.	)	

REPORT OF PROCEEDINGS had in the above-entitled cause, before the HONORABLE JAMES B. LINN, Judge of said Court, on the 1st day of February, 2023.

APPEARANCES:

HON. KIMBERLY M. FOXX,
State's Attorney of Cook County,
BY: MS. CHRISTA BOWDEN,
Assistant State's Attorney,
appeared for the People;

MR. SHARONE R. MITCHELL, JR.,
Public Defender of Cook County
BY: MR. JOSEPH CARLSEN,
Assistant Public Defender,
appeared for Quovadus Mahomes.

Sharon E. Thompson, CSR 084-004429
Official Court Reporter
2650 S. California, Room 4-C02
Chicago, Illinois 60608

everything. If I could take it back, I would. I wish I could take it back. I can't. I been dealing with this for 10 years too. I don't want y'all to think that I'm just in jail and it don't weigh on me because I'm in jail. It weigh on me too, you know. I wish I could say something to comfort you to make you feel better. I want you to know that I am apologetic and I am very sorry. I hope you don't look at me like a coward. I wish I could do more. I wish I could do better. All I can do is try to do better now.

THE COURT: This matter has been on this docket for about a decade now. There was a trial, and there was a sentencing hearing. The original sentencing hearing was bifurcated and it was held over for more than one day. I remember that Mr. Mahomes, and I had use of the transcript to verify this, he was very anxious before. He didn't want his normal time for speaking. He wanted to speak immediately. This was the first portion of the sentencing hearing before the Court, the aggravation and presentations in mitigation had completed. He indicated he was apologetic.

And then the second time, on the day of

sentencing, he indicated he was apologetic in a manner and it wasn't Common that was supposed to be the target here. And I am quoting from him now looking at the transcript of the second day of the sentencing hearing. I just want to say I'm sorry again. I am not able to explain it. Like I said none of this was planned. That wasn't for her son, speaking to the Common family. Phillip, he knew what was going on, which indicated to me that Philip was an intended target.

The fact of the matter is he did go to that neighborhood with drug dealing in mind and a willingness and almost an anxiousness to use a gun, and he did, and disaster is happening for everybody.

With that said, I have much more information available today than I did previously. I did not hear the presentation from the moms like I did today or the other victim impact letters. I certainly did not have the mitigation report, which I heard today.

And I have to say a few words about that. I cannot imagine a bigger dichotomy with how to raise your children than what I have heard from Ms. Swanagan. I don't need to pile on with Ms. Swanagan. She has already taken full

responsibility for the way she raised her son, saying that I raised a monster, and she's looking at the world in a different eye now. And I get that, and I am not going to add anything more because there is nothing I can say about her that she's not already said about herself. I won't. And I believe that she is sincere and extremely contrite about the way she raised her son.

Ms. Common on the other hand is more of a traditional mother and gave Devin much more of a traditional upbringing, and she's grieving to this day. Even though she has forgiven Mr. Mahomes for what he did, the grief is clear. And she is still crying tears. And I can tell that the pain that she and her family have is never going to mitigate, never going to mitigate completely.

The law has been changing. I have been urged to look at juvenile crimes in a different eye than before. It's somewhat the same because even back when this case happened, I had discretion to add a gun enhancement or not, and I exercised my discretion not to.

Since then the Buffer case has come down. And I had some suggestions here about how the Buffer

case should be looked at. It is from the Illinois Supreme Court. And I do believe that it is a bright light for cases like this no matter what. So I am still finding that what happened here was -- the crime itself, I am having trouble finding any mitigating factors here to lessen the severity of what Mr. Mahomes did, going down to the neighborhood to sell drugs in an unfamiliar place, armed with a weapon, using it so quickly, knowing that Philip, who was somebody was hit, did know what was going on. That is still troubling. And that is something that happened and something that -- that is the person that he is.

With that said, I do find -- I have heard more mitigation than before. Actually I am looking at the Appellate Court record, and I know Mr. Carlsen is making a point that I did not specifically say that great bodily harm was caused by these aggravated battery counts, which I said by law had to run consecutive to each other. And I think when I said those words, the triggering offense had to run consecutive, I was implying that I was making the findings that required that -- He is saying I didn't specifically say those words.

So there is different ways I can approach this, and I will approach where it is consistent with Mr. Carlsen's suggestions. So here's the re-sentence: For first degree murder 30 years in the penitentiary. That will run consecutive to Counts 73 and 74. The aggravated battery with firearm counts, those sentences will run concurrent to each other instead of consecutive. Also 5 years in the penitentiary, again, for the aggravated discharge of the firearm. That will run concurrently as well.

So it's 37 years instead of 44 years. The aggravated battery -- The two aggravated battery counts will run consecutive to the first degree murder count by law, but they will run concurrent to each other and concurrent with the aggravated discharge of a firearm count.

How many days credit does he have right now?

MR. CARLSEN: I am sorry, Judge.

THE COURT: He had 1,444 days credit as of January 12th of 2017. He's got more credit now.

MR. CARLSEN: 3,656.

THE COURT: Three thousand?

MR. CARLSEN: 3,656 days.

THE COURT: Government agree with that

calculation?

MS. BOWDEN: Yes, Judge.

THE COURT: 3,656 days served. Mr. Mahomes, you're re-sentenced. You still have the right to ask that this sentence -- re-sentence be modified. To do that you have to file a motion in writing within 30 days stating the reasons why. Anything not stated in the filings will be waived for purposes of appeal. If you could not afford lawyers or transcripts, they will be provided free of charge, and I will appoint a State Appellate Defender if you want.

Mr. Carlsen, if you want to make any post sentencing motions, you are welcome to?

MR. CARLSEN: Judge, I will make an oral motion to reconsider sentence, which will be followed up by a written motion.

THE COURT: And do you wish to file a Notice of Appeal?

MR. CARLSEN: Yes, I will also file a Notice of Appeal.

THE COURT: I will appoint the State Appellate Defender, but I need to see the papers before I do.

MR. CARLSEN: I will get it to you.

THE COURT: You want me to hold it on the docket

or do you just want to give it to me in a timely fashion? It's up to you.

MR. CARLSEN: I can get it to you tomorrow.

THE COURT: Okay. All right. That will be the order.

MS. BOWDEN: Did you rule on the motion to reconsider sentence?

THE COURT: I have obviously considered the motion to reconsider sentence and it's respectfully denied.

(WHICH WERE ALL THE PROCEEDINGS HAD IN THE ABOVE-ENTITLED CAUSE.)