

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE
July 14, 2026 Session

FILED

09/02/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. JORGE ALBERTO GARCIA

Appeal from the Circuit Court for Williamson County
No. M-CR200386 Deana C. Hood, Judge

No. M2025-00980-CCA-R3-CD

A Williamson County jury convicted Defendant, Jorge Alberto Garcia, of four counts of aggravated sexual battery, eight counts of rape of a child, and two counts of solicitation to commit rape of a child. The trial court imposed an effective sixty-two-year sentence with sex offender registration and community supervision for life. On appeal, Defendant argues that the trial court erred in denying his motion to suppress because his confession was involuntary and the detective failed to obtain a valid waiver of his *Miranda* rights. Additionally, Defendant argues that the erroneous admission of his confession was not harmless error. After a thorough review of the record, the parties' briefs and arguments, and the applicable law, we affirm the judgments of the trial court. However, we remand for clarification of the trial court's sentencing order and any resulting corrections of the judgment forms.

Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Circuit Court Affirmed

JILL BARTEE AYERS, J., delivered the opinion of the court, in which CAMILLE R. MCMULLEN and TOM GREENHOLTZ, JJ., joined.

William Pomeroy (at sentencing, motion for new trial, and on appeal), Brentwood, Tennessee, and Cayley Turrin and Craig Rouviere (at trial), Franklin, Tennessee, for the appellant, Jorge Alberto Garcia.

Jonathan Skrmetti, Attorney General and Reporter; Lacy E. Wilbur, Senior Assistant Attorney General; Stacey Edmonson, District Attorney General; and Mary Katharine Evins and Jennifer Mason, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

Factual and Procedural Background

This case arises from Defendant's sexual abuse of the victim, K.D.¹ The abuse occurred when K.D. was between eleven and twelve years old and lived with her grandmother, mother, aunt, two other children, and Defendant, who was married to her aunt. K.D. referred to Defendant as her uncle. A Williamson County grand jury indicted Defendant on four counts of aggravated sexual battery, eight counts of rape of a child, and two counts of solicitation to commit rape of a child.

Suppression Hearing

At the suppression hearing, Detective Dustin Miller² of the Brentwood Police Department ("BPD") testified that in July 2019, K.D.'s mother brought K.D. to the BPD to report several instances of sexual abuse by Defendant. In the initial stages of his investigation, Detective Miller observed K.D.'s forensic interview, interviewed K.D.'s mother, and conducted controlled phone calls between K.D.'s mother and Defendant. During those controlled calls, Defendant made no specific admissions of sexual activity, but he apologized for what happened and said, "I touched her she touched me and we need to get past it."

Based on information disclosed by K.D. in her forensic interview, Detective Miller obtained a search warrant for specific items located in K.D.'s bedroom, her mother's bedroom, her grandmother's bedroom, and the bedroom Defendant shared with his wife. These items were collected and sent to the Tennessee Bureau of Investigation ("TBI") for forensic testing.

Defendant first came to the BPD on July 19, 2019, after agreeing to speak with Detective Miller about K.D.'s allegations. The interview lasted about two hours.³ Detective Miller stated that he "had not arrested [Defendant]. [Defendant] wasn't in custody. [Defendant] had voluntarily came [sic] to the police department at [his] request . . . to give [him] [Defendant's] side of the story." During the interview, Defendant denied any sexual penetration or sexual activity with K.D. He also used wording that Detective Miller said, "made it sound like [K.D.] was being provocative or trying to lure" Defendant. Defendant also told Detective Miller that K.D. would dress provocatively at

¹ It is the policy of this court to refer to minor victims by their initials.

² At the time of the suppression hearing and trial, Dustin Miller was a lieutenant with the Brentwood Police Department, however, at the time of the offense, he was a detective, so we refer to him throughout this opinion as Detective Miller.

³ The July 19, 2019 interview was not the subject of the motion to suppress.

home and that she looked older than her age. Defendant thought K.D. was already having sex and wanted to be a woman. At the time of this interview, Detective Miller had executed the search warrant at the home; he and Defendant discussed how the search was conducted and discussed the items collected and sent to the TBI for testing.

On May 26, 2020, Defendant voluntarily appeared at the BPD to retrieve a cell phone previously seized during the investigation. The meeting was not arranged as an interview, and Defendant was told he was not under arrest and was free to leave at any time. Defendant sat closest to the interview room door and his exit was unobstructed.

While Detective Miller filled out paperwork to release the phone, Defendant asked whether the laboratory results had been returned from the TBI. Detective Miller told him that they had and said they could discuss the results if Defendant wished. After the phone return form was signed, Defendant initiated conversation about the DNA findings, and Detective Miller explained that the TBI had identified Defendant's semen on multiple areas of a blanket collected from the victim's bed. About Defendant's response, Detective Miller said, "I remember him telling me that that was impossible, that it couldn't have happened. . . . He talked about how he couldn't get an erection. . . . He even told me that he and his wife hadn't had any sexual activity in [K.D.'s] bedroom." Detective Miller explained to Defendant that he had conducted the evidence collection "by the book" and methodically processed each room of the residence separately.

During the interview, Defendant asked whether a sample had been taken "from inside" the victim. Detective Miller responded that medical personnel had obtained such a sample, though he later testified he was mistaken and believed at the time that the standard sexual assault examination would have included it. He said, "[I]t's normal procedure that they do, but it fell outside of the time line, and we didn't find out that that hadn't been done until I started giving things over to [the D.A.'s office] and we went to go gather that particular information." Detective Miller also told Defendant he had spoken to Defendant's doctors about Defendant's erectile-dysfunction claims, though he admitted at the hearing that he had only spoken with Defendant's wife. Detective Miller said both remarks were made in the course of trying to test the accuracy of Defendant's explanations and were not intended as coercion.

The conversation continued in a calm, conversational tone. Detective Miller testified that he did not raise his voice, threaten Defendant, or make promises of leniency. He agreed that he did tell Defendant that he did not have authority to make decisions about what happens in a case, but that he would "talk to the DA, let them know whether or not [Defendant] had told the truth." He also acknowledged employing rapport-building techniques, including referencing his own past mistakes and stating that "telling the truth" often helped people feel relieved. Defendant repeatedly denied

knowing how his DNA could be present on the blanket and expressed fear that he would “go to prison for life.” He asked Detective Miller several times what Detective Miller recommended he do, but Detective Miller consistently refused to give advice and reiterated that he was only seeking the truth.

As the conversation progressed, Defendant told Detective Miller that he lived “out in the woods,” had little money, and feared losing his wife and family. Detective Miller left the room to consult his supervisor, explaining that because Defendant had become aware of the evidence, Detective Miller feared Defendant might abscond if released. After discussing the matter with his supervisor and attempting unsuccessfully to reach the district attorney, Detective Miller returned and informed Defendant he was being placed under arrest. Defendant was searched, handcuffed, and remained seated at the table.

Once Defendant was in custody, Detective Miller explained that he could not ask further questions until he advised Defendant of his constitutional rights. Detective Miller read the *Miranda*⁴ warnings verbatim from the department’s waiver form. He asked about Defendant’s education; Defendant replied that he had a GED. Detective Miller noted that based on previous conversations with Defendant, he knew Defendant was a self-employed businessman and that Defendant had “negotiated a lot of car sales and things like that.” Defendant said he could not see the form clearly without his glasses, so Detective Miller reread the entire waiver. When Defendant said he did not understand “all of” the rights, Detective Miller repeated the warnings for a third time. Defendant ultimately said he understood the rights and signed the waiver form. Detective Miller testified that Defendant never indicated a desire to stop the interview or to speak with counsel; Defendant denied being under the influence of any type of intoxicant. Detective Miller said he had no reason to believe Defendant was under the influence of any intoxicant and he had no reason to be concerned about Defendant’s IQ or mental intellect.

After Defendant signed the waiver, he said he wanted to “tell the truth.” He told Detective Miller that “it began because [Defendant] was placing medication on K.D.’s body” for a rash she had on her leg. Defendant pointed out places on his own body to indicate where he had applied the medication on K.D.’s body, including the inside of her thighs and other places “that [Detective Miller thought] would be inappropriate . . . you wouldn’t expect someone to be putting medication on this little girl in those particular parts . . .” Defendant then proceeded to describe various sexual acts involving the child, including digital penetration and oral contact; however, he continued to deny penile-vaginal penetration. Defendant also admitted that K.D. had touched his penis on

⁴ *Miranda v. Arizona*, 384 U.S. 436, 444 (1966) (holding any statement made by the accused during a custodial interrogation without the benefit of procedural safeguards is inadmissible in court).

numerous occasions but said it was “just for a second or two.” He also told Detective Miller that “he didn’t like it but that [K.D.] pursued him.”

On cross-examination, Detective Miller was questioned about his rapport-building techniques, and he acknowledged that if he can get a defendant to identify with him, it makes it easier for the defendant to talk with him. He also admitted that in this case, he spoke with Defendant about “clearing his conscience.” Detective Miller, who was in seminary at the time of the investigation, said “somehow it came up that [Detective Miller] had a church,” but he denied having any significant conversation with Defendant about religion. He also denied that his offer to tell the district attorney general whether Defendant had been truthful was in any way a promise of leniency. Instead, he stated that he believed “it goes to someone’s character when they tell the truth,” and on numerous occasions after dealing with a suspect, he had informed the district attorney general’s office whether or not he believed that person had been truthful.

To further clarify his testimony, on redirect and recross examination, Detective Miller said it was Defendant who mentioned church during the interview, and it was Defendant who mentioned “hell.” Detective Miller never told Defendant that he would be in “hell.” Detective Miller also reiterated that he never told Defendant his DNA was found inside of K.D. He pointed out that when Defendant asked him specifically if Defendant’s semen was found inside of K.D., he did not answer that question and instead discussed the results which determined semen was found on K.D.’s bedding.

The video recording of the interview was entered as an exhibit and played for the trial court. No additional testimony was offered.

The trial court found no basis to suppress Defendant’s statements. Both in its oral ruling and written order, the court emphasized that “coercive police activity is a necessary predicate to a finding that a confession is not voluntary” and concluded that “the conduct engaged in by Detective Miller does not rise to that standard.” The court observed that throughout the discussion, Defendant “was calm,” his “voice was consistent,” and he continued conversing with Detective Miller “of his own accord,” demonstrating that “his will was not [overborne] by anything that Detective Miller did.” The court found that Detective Miller’s statement - “if you tell me the truth, I will communicate that to the District Attorney” - was not a promise of leniency and “would not warrant the Court suppressing the inculpatory statements.” After determining that Defendant was properly advised of his rights, understood them, and voluntarily waived them, the trial court concluded that under the totality of the circumstances, Defendant’s decision to speak was “freely self-determined.” Accordingly, the motion to suppress was denied.

Trial

K.D., who was sixteen years old at the time of the trial, testified that Defendant had been married to her aunt and had been in her life since she was born. She described her relationship with Defendant as a normal uncle-niece relationship up until about “a month or two before [she] turned twelve,” which was when the first incident of “touching” occurred. K.D. said she used to go into Defendant’s and her aunt’s bedroom when they were watching television and lie across Defendant’s lap, and he would rub her back. She said, “And then one day, when my auntie had left the room, and he just went further down my back. . . . He started touching my butt[,]” adding that this first incident of touching occurred over her clothes. K.D. felt uncomfortable and after a few minutes, she got up and left the room.

She recalled the second incident occurred later that same day. Defendant drove her to the corner store and on the drive back to their house, he drove past their house and turned into the next neighborhood. While he was driving, he put his hand on her thigh; he then put his hand into her pants and began touching her vagina with his fingers. She said his fingers were inside her vagina and he “moved them around.” K.D. recalled that Defendant also touched her breast and asked her to perform fellatio while they were in the car. When she told him “no,” he seemed “irritated,” and they went home. She did not tell anyone when they got home because she was scared.

K.D. testified that after her twelfth birthday, Defendant began touching her more frequently. She said he touched her vagina, breasts, and butt with his hands both over and under her clothing. Those incidents occurred “throughout the house.” When asked to elaborate on the locations, K.D. said Defendant touched her in her room, his room, her mother’s room, the playroom, and the laundry room. Although she could not recall every exact date, she consistently described the conduct as occurring “whenever we were alone” and happening “a day or two” between incidents.

Defendant’s contact moved from touching K.D. with his hands to penile penetration and his performing oral sex on her. She testified that Defendant touched her with his penis four times: “The first time was I was in my room, and I was just laying on my bed. And he came in my room and had me get to the -- the bottom of my bed.” Defendant pulled his pants down and then hers and told her that “he was just going to put the tip in.” Defendant then put his penis into her vagina. K.D. said she felt uncomfortable, that the penetration caused pain, and that it lasted about five minutes. She also noted that other family members were in the home when this occurred. In later testimony, K.D. said she was “not for sure” if anything came out of Defendant’s penis during this incident, but her bed was “wet” and there was “stuff on her bed.”

The second incident of penile-vaginal penetration occurred in her mother's bedroom; K.D. was sleeping in her mother's bed while her mother was in the hospital, and Defendant came into the room, removed her pants and panties, and put his penis into her vagina. The third and fourth incidents both occurred in Defendant's bedroom. During the third incident, Defendant performed oral sex on K.D. before he penetrated her vagina with his penis. K.D. said when the fourth incident occurred, she had tried to leave the room, but Defendant grabbed her arm, leaving a bruise, and locked the door. After describing those four incidents, K.D. said Defendant performed oral sex on her a total of three times, and she described several instances when Defendant took her hand and put it on his penis. She testified that there were times when she physically pushed Defendant's hand away or pushed her body back from Defendant and described occasions where she kept her lips tightly closed when Defendant tried to force contact between his penis and her mouth.

The fourth incident of penetration was the last time Defendant made any sort of sexual contact with K.D. About a week after that incident, K.D. told her best friend about the abuse. Her friend told her, "If you don't tell your mom, I will." Later that same night, K.D. disclosed the abuse to her mother. She said her mother remained calm and listened as K.D. told her that "[Defendant] ha[d] been touching [her]." K.D.'s mother then called K.D.'s father, who did not live with the family, and then she called the police. After speaking with the police on the phone, K.D.'s mother took K.D. to the BPD to make a report. They arrived at the BPD around midnight and left about 4:00 a.m.; they checked into a hotel instead of returning to the home they shared with Defendant. While at the hotel, K.D. "wrote down little cards to give to the lady [she] had to speak to." Further questioning revealed that K.D. was scheduled to have her forensic interview and she "want[ed] to make sure [she] sa[id] everything" about the abuse, so she wrote it all out on notecards. She did not read from the notecards during her forensic interview, but she gave the notecards to the interviewer when she arrived. The notecards were exhibited to her testimony.

Officer Timothy Finney of the BPD testified that he was working third shift on July 2, 2019, when he received a call a little after midnight to take a report regarding this case at the police station. When he arrived, he met with K.D.'s mother in an interview room. He described her demeanor as being "a little shaken up" and said her emotional state was "what I would expect from what she had told me." He did not speak with K.D. because the BPD's protocol was that patrol officers did not take statements from juvenile sexual abuse victims. Officer Finney contacted Detective Miller to advise him of the report.

TBI Special Agent Heather Lenzy, qualified without objection as an expert in forensic biology (serology and DNA), testified that she performs testing for blood,

semen, and saliva, as well as touch DNA. Special Agent Lenzy conducted presumptive and confirmatory testing on various bedding items that had been collected from Defendant's and K.D.'s home. Most items did not indicate semen; however, a gray fleece blanket, labeled as one taken from K.D.'s bedroom, yielded three distinct sperm containing stains. Special Agent Lenzy noted that one of the stains contained a large quantity of sperm and that those sperm still had intact tails, indicating the stain was "fresh." She added that even though the stains were not tested until several months after the evidence was collected, once sperm dries, it maintains its consistency. She explained, "I guess I can describe it as once it dries, it's almost like a snapshot." The DNA profile from the sperm fraction of all three stains matched Defendant. As to whether there was a chance the DNA belonged to someone else, Special Agent Lenzy said, "The probability of randomly selecting an unrelated individual who would be included as a contributor of the DNA profile is one in a number greater than the current world population for the African-American, Caucasian, and Southwest Hispanic population."

Dustin Miller worked as a detective in the BPD Criminal Investigations Division, where he was the primary detective handling child sex abuse cases. As such, he served as part of the Child Protective Investigative Team ("CPIT"), which is a multidisciplinary team tasked with investigating cases of child sex abuse. Detective Miller testified that after K.D.'s mother filed the report, he determined the first steps of his investigation would be interviewing K.D.'s mother and having her place a controlled call to Defendant. Based on the information gleaned from that interview and call, he decided to schedule a forensic interview for K.D., and that took place on July 3, 2019. Pursuant to BPD protocol, Detective Miller watched K.D.'s forensic interview via live stream from another room; also present was Nakia Thomas from the Department of Children's Services, who was part of the CPIT team assigned to this case. Detective Miller said that "after that particular interview, [he] identified a lot of things that [he] felt like [he] needed to ask. Questions that needed to be asked of the person that was being accused." Additionally, based on information given by K.D. during the interview, he identified "certain things that [he] needed to look for, certain things that [he] needed to collect . . ." Thus, he obtained and executed a search warrant of Defendant's home later in the night on July 3.

Detective Miller explained the process of executing the search warrant and noted that the officers "take pictures of everything before [they] touch anything." Then, they remove items and put them into bags, finishing in one room before moving to another and repeating the process. During his testimony, Detective Miller identified a gray fleece blanket in a photograph taken of K.D.'s bed. He also identified a gray-silver blanket in a photograph taken of Defendant's bed. He testified that it was the blanket taken from Defendant's bed which contained the semen stains that tested positive for Defendant's DNA. He acknowledged that this evidence had been mislabeled and that the report from the TBI incorrectly stated that Defendant's DNA was found on the blanket taken from

K.D.'s bed. This error was not discovered until September 2023, one month before trial, during an attorney review of the evidence. Detective Miller explained that the blanket which came from Defendant's bed and had Defendant's sperm on it was consistent with his investigation because Defendant told him he was impotent, "that he was innocent, that he could not get an erection, that he could not have sex under any circumstances, that it had hurt him so bad that he could barely stand up." K.D. was very specific about where the abuse happened and she specifically said it happened on the side of Defendant's bed where the blanket was retrieved.

Detective Miller testified that it took "quite a while" to get the forensic results back from the TBI. His testimony at trial regarding his May 2020 interview, where he discussed the results with Defendant, was consistent with that given at the suppression hearing. He said Defendant contacted him about picking up a cell phone previously seized. Defendant went to the BPD voluntarily to retrieve the cell phone, and while Detective Miller was filling out the appropriate paperwork, Defendant asked whether the results were back from the TBI. Initially, their interaction was non-custodial, and Detective Miller told Defendant multiple times that he was not under arrest and was free to leave at any time. However, at some point during the interview, Detective Miller became concerned that Defendant may abscond if he was allowed to leave. After speaking to his supervisor, Detective Miller arrested Defendant. Once Defendant was in custody, Detective Miller advised him of his *Miranda* rights. He explained, "I didn't just read them once, I went back through them twice because I didn't want - - wanted to make sure that he told me that he understood . . . [A]fter reading the rights, and him waiving those rights, he sign[ed] the [waiver] form." Detective Miller noted that he filled out all sections on the form, including those pertaining to Defendant's personal information; Defendant signed the form, and it was witnessed and signed by another officer.

In describing his interview techniques, Detective Miller testified that he utilized standard approaches taught in formal interview training, including confronting Defendant with information available at the time, presenting both verified and unverified details to gauge Defendant's reactions, and repeating questions to assess consistency. He explained that he sometimes referenced information he had not independently confirmed, such as Defendant's claimed impotence, because interview training teaches detectives to present various statements—including those not yet proven—to elicit clarifications or admissions. He also said his manner of questioning was shaped by the information then known to him, including the TBI report listing semen as having been found on the blanket identified as coming from K.D.'s room.

Detective Miller also detailed several inconsistencies he observed in Defendant's statements during the May 2020 interview. Defendant initially minimized his contact with K.D., but later acknowledged additional interactions, such as driving her to various

locations and entering specific rooms that aligned with accounts provided in K.D.'s forensic interview. Defendant's descriptions of events evolved during questioning, including acknowledging conduct such as driving slowly through a cul-de-sac, entering K.D.'s mother's bathroom, oral sex, and digital penetration - details Detective Miller said had not been disclosed to Defendant beforehand. He further testified that Defendant's explanations for certain behaviors shifted over the course of the interview and that Defendant expressed confusion at various points, requiring Detective Miller to clarify questions. He noted that, despite being confronted with information about DNA evidence and other details, Defendant did not provide a consistent account and made statements that differed from those given by other witnesses and from information obtained during the forensic interview and investigation.

Aimee Alberd was a forensic interviewer at the Davis House Child Advocacy Center and had worked there for approximately five years and nine months, during which she conducted around 1,200 forensic interviews with children. Ms. Alberd testified that she conducted the forensic interview of K.D., which had been recorded and was played for the jury; she affirmed the recording was a fair and accurate depiction of the interview. Ms. Alberd explained that K.D. demonstrated the ability to provide detailed descriptions of events, physical positioning, sensory experiences, and sequences of time. She noted that K.D. corrected her on several occasions when Ms. Alberd misstated details, including the number and location of specific incidents. During cross-examination, Ms. Alberd acknowledged reviewing handwritten cards created by K.D., which listed three instances of penile penetration, but during the forensic interview, K.D. described four instances. She explained that children sometimes provide additional details as interviews progress, and she reaffirmed that K.D. did not report being pressured or threatened by anyone other than Defendant. During the interview, she did not observe any information suggesting K.D. was referencing anyone other than Defendant in her descriptions.

Dr. Lisa Milam, a forensic social worker formerly with the Our Kids Center, testified as an expert in child sexual abuse. She met with K.D. on July 8, 2019, after K.D.'s mother reported K.D.'s disclosure of sexual abuse by her uncle. She testified that K.D. reported vaginal pain for several days and said Defendant touched her vagina with his fingers and penis, describing both internal and external contact. Our Kids Center Nurse Practitioner Lori Littrell testified that she conducted K.D.'s physical medical examination on July 8, 2019. The examination was normal except for a one-centimeter bruise on K.D.'s right breast, which she photographed and documented. The bruise was consistent with K.D.'s report that Defendant had grabbed her breast. Ms. Littrell explained that based on the timeline provided—one to two weeks since the last reported contact—no forensic evidence collection (or rape kit) was performed, as it fell outside the window in which such testing is effective. Her exam findings were consistent with K.D.'s disclosures made during the evaluation.

Defendant testified that he was sixty-seven years old and had lived in Tennessee since 1990. He and his wife moved into the home belonging to his mother-in-law in 2018–2019 to help repair the residence. He explained that several people lived in the home during that period, including himself, his wife, his mother-in-law, K.D., K.D.'s brother, and K.D.'s mother and her boyfriend. K.D. was related to him by marriage and he had known her since birth.

Defendant described the household environment, stating that he witnessed frequent arguments and physical fights involving K.D. and her brother, as well as conflicts between K.D. and her grandmother. He testified that he often intervened to stop those disputes. He additionally said K.D. displayed aggressive behavior toward his children, including pushing or hitting them, and described instances of her stealing small items from stores. He testified that K.D.'s mother did not have custody of her, and that his mother-in-law served as K.D.'s primary caregiver.

Defendant testified that he had observed K.D.'s mother commit theft within the home, including stealing from him, his wife, and her own parents. He said he witnessed K.D.'s mother take and pawn one of his guitars. He described tensions and repeated disagreements between him and K.D.'s mother during 2019. K.D.'s mother often took K.D. out late at night and brought her home very late, causing K.D. to miss school. He saw no stable relationship or affectionate interactions between K.D.'s mother and K.D. during the time they lived together.

Defendant denied every instance of sexual contact described by K.D. in her forensic interview. He said none of the incidents described—whether in bedrooms, the truck, the laundry room, the playroom, or any other location—ever occurred. He acknowledged entering K.D.'s room in the past for household repairs or to see her pet snake but denied doing so during the situations she described. He denied touching her buttocks, thighs, breasts, vagina, or any part of her body in a sexual manner; denied exposing himself; denied undressing in her presence; and denied placing her in any physical position as described in her statements. He said when he drove K.D. to various places, her brother or his own children were usually present.

Defendant also testified that he suffered from a significant hiatal hernia and related medical issues that caused him severe pain, limited mobility, and sexual dysfunction, including an inability to achieve an erection. He said that during the May 2020 police interview with Detective Miller, he had taken pain medication, Xanax, and a portion of a Lortab and wore a mask to conceal signs of intoxication. He testified that he initially denied any wrongdoing but later made statements suggesting inappropriate contact because he feared being jailed and because he believed Detective Miller wanted him to confess. He testified that those admissions were not truthful and were made only because

he was afraid of being arrested, felt unwell, and believed Detective Miller claimed falsely that DNA connected him to the allegations. Even though he got worried when Detective Miller told him he was being untruthful, he also said he knew Detective Miller “was kind of lying, doing his little police thing . . . like how we watch on T.V.” And, on cross-examination he said that even though Detective Miller had told him he was free to leave prior to being placed under arrest, he knew that was “just another one of those little schemes they used.” Based on this evidence, the jury returned guilty verdicts on all counts as charged in the indictment. The trial court conducted a sentencing hearing on February 20, 2025, and imposed an effective sentence of sixty-two years to be served at 100%. Defendant subsequently filed a motion for new trial, raising the sole issue of the trial court’s denial of his motion to suppress his custodial interview, and arguing that his statements were involuntary due to alleged coercive police tactics. The trial court denied the motion for new trial. Defendant filed a timely notice of appeal.

Analysis

On appeal, Defendant challenges the trial court’s denial of his motion to suppress on three grounds. He argues first that his confession was involuntary because Detective Miller used coercive tactics, including implied promises of help, emotional and religious pressure, and misrepresentations about the evidence, to overbear his will. Second, he contends that he did not knowingly and voluntarily waive his *Miranda* rights, pointing to his difficulty reading the waiver form, his initial statements of confusion, and his belief that signing the form was necessary to continue speaking with the detective. Third, he asserts that admission of his custodial statements was not harmless and that without the confession, the remaining proof was insufficient to support the jury’s verdict. In response, the State maintains that the trial court correctly found Defendant’s statements voluntary under the totality of the circumstances, emphasizing the calm tone of the interview, the absence of threats or promises, and the detective’s credible testimony that any factual inaccuracies stemmed from mistaken belief rather than intentional coercion. The State further argues that Defendant was adequately advised of his rights and expressly affirmed his understanding before signing the waiver, and that even assuming error, any improper admission of the statements was harmless in light of the victim’s detailed testimony and corroborating forensic evidence.

“[A] trial court’s findings of fact in a suppression hearing will be upheld unless the evidence preponderates otherwise.” *State v. Green*, 697 S.W.3d 634, 640 (Tenn. 2024) (quoting *State v. Odom*, 928 S.W.2d 18, 23 (Tenn. 1996)). “Questions about the ‘credibility of the witnesses, the weight and value of the evidence, and resolution of conflicts in the evidence are matters entrusted to the trial judge as the trier of fact.’” *Id.* (quoting *Odom*, 928 S.W.2d at 23). Appellate courts may consider evidence offered at both the suppression hearing and the trial when reviewing the trial court’s ruling on a

suppression motion. *State v. Washington*, – S.W.3d –, 2025 WL 2847585, at *3 (Tenn. Oct. 8, 2025) (citing *State v. Henning*, 975 S.W.2d 290, 299 (Tenn. 1998)). The prevailing party is afforded the “strongest legitimate view of the evidence adduced at the suppression hearing as well as all reasonable and legitimate inferences that may be drawn from that evidence.” *State v. McKinney*, 669 S.W.3d 753, 764 (Tenn. 2023) (quoting *State v. Talley*, 307 S.W.3d 723, 729 (Tenn. 2010)). While this court will defer to the trial court’s credibility findings, “the application of the law to the facts is a question of law that appellate courts review de novo with no presumption of correctness.” *Green*, 697 S.W.3d at 640 (quoting *State v. Bell*, 429 S.W.3d 524, 529 (Tenn. 2014)); *State v. Echols*, 382 S.W.3d 266, 277 (Tenn. 2012).

I. Voluntariness of the Confession

Defendant claims his statements were involuntary because Detective Miller allegedly: (1) implied that honesty would result in leniency or assistance; (2) invoked moral, religious, or emotional pressure; and (3) misrepresented the existence or location of DNA evidence, specifically, suggesting sperm had been found “inside” K.D. He also claims the detective exploited his fear of incarceration and concerns about his medical condition. The State responds that the interview was calm and conversational, Detective Miller made no promises of leniency, and that any misstatements regarding DNA were not intentional. Additionally, the State emphasizes the absence of threats, physical deprivation, or extended pressure.

Confessions that are the product of coercion, be it physical or psychological, are considered involuntary and, therefore, inadmissible. *Rogers v. Richmond*, 365 U.S. 534, 540 (1961). “The test of voluntariness for confessions under Article I, § 9 of the Tennessee Constitution is broader and more protective of individual rights than the test of voluntariness under the Fifth Amendment.” *State v. Smith*, 933 S.W.2d 450, 455 (Tenn. 1996). A voluntary statement must “not be extracted by any sort of threats or violence, nor obtained by any direct or implied promises, however slight, nor by the exertion of any improper influence” *Id.* (quoting *Bram v. United States*, 168 U.S. 532, 542-43 (1897)). “A defendant’s subjective perception alone is not sufficient to justify a conclusion of involuntariness in the constitutional sense.” *Id.* (citing *State v. Brimmer*, 876 S.W.2d 75, 79 (Tenn. 1994)).

“[C]oercive police activity is a necessary predicate to finding that a confession is not voluntary.” *Brimmer*, 876 S.W.2d at 79 (citing *Colorado v. Connelly*, 479 U.S. 157, 164 (1986)). “[T]he essential inquiry under the voluntariness test is whether a suspect’s will was overborne so as to render the confession a product of coercion.” *State v. Climer*, 400 S.W.3d 537, 568 (Tenn. 2013) (citing first *Dickerson v. United States*, 530 U.S. 428, 433-35 (2000); and then *Smith*, 933 S.W.2d at 455). The question of whether a suspect’s

will was overborne “must be answered with ‘complete disregard’ of whether or not the accused was truthful in the statement.” *State v. Phillips*, 30 S.W.3d 372, 377 (Tenn. Crim. App. 2000) (quoting *Rogers*, 365 U.S. at 544). This analysis encompasses both the characteristics of the accused and the details of the interrogation. *McKinney*, 669 S.W.3d at 765. To determine the voluntariness of a statement, the court must examine the totality of the circumstances. *Climer*, 400 S.W.3d at 568 (citing *Dickerson*, 530 U.S. at 434). Circumstances relevant to this determination include:

[T]he age of the accused; his lack of education or his intelligence level; the extent of his previous experience with the police; the repeated and prolonged nature of the questioning; the length of the detention of the accused before he gave the statement in question; the lack of any advice to the accused of his constitutional rights; whether there was an unnecessary delay in bringing him before a magistrate before he gave the confession; whether the accused was injured[,], intoxicated[,], or drugged, or in ill health when he gave the statement; whether the accused was deprived of food, sleep [,] or medical attention; whether the accused was physically abused; and whether the suspect was threatened with abuse.

State v. Climer, 400 S.W.3d 537, 568 (Tenn. 2013) (citing *State v. Huddleston*, 924 S.W.2d 666, 671 (Tenn. 1996)).

Here, Defendant argues that Detective Miller impliedly promised leniency by telling Defendant that if he told the truth, Detective Miller would tell the district attorney general’s office that he did so. However, such generalized promises do not necessarily render a statement involuntary. *See State v. Brown*, No. M2007-00427-CCA-R3-CD, 2009 WL 1038275, at *21 (Tenn. Crim. App. Apr. 20, 2009). “One of the main factors in determining whether promises of leniency compelled a suspect’s confession is whether law enforcement officials or other State agents made specific promises of leniency (i.e., treatment or a reduced sentence) in return for the suspect’s statements or threatened the suspect with prosecution (or a more severe sentence) should he not cooperate.” *Id.* Detective Miller’s promise did not compel Defendant’s inculpatory statements. In fact, Detective Miller consistently told Defendant he had no decision-making authority in Defendant’s case. Further, Defendant continued to deny wrongdoing until after he signed the waiver form; he then told Detective Miller, “Well, I would like to go ahead and tell you the truth now, *if it makes any difference or not.*” (emphasis added). The trial court found, and the record supports, that Detective Miller did not make any promises of leniency that overbore Defendant’s will.

Next, Defendant contends that Detective Miller coerced him into making incriminating statements by “[taking] advantage” of his religious beliefs. Defendant

claims Detective Miller exploited his beliefs by saying that continuing to live with the situation would be “more hell” than apologizing. However, the record shows no explicit religious appeals, no references to God or spiritual redemption, and no sustained thematic use of faith-based pressure. Contextual or passing references to moral or spiritual ideas do not automatically render a confession involuntary, and such comments must be shown to have actually overborne the suspect’s will. *See McGee v. State*, 451 S.W.2d 709 (Tenn. Crim. App. 1969) (holding that a suspect’s confession was not coerced when an officer asked him whether he believed in God); *State v. Leverston*, No. W2006-02304-CCA-R3-CD, 2007 WL 4245725 (Tenn. Crim. App. Dec. 3, 2007) (upholding the trial court’s denial of the motion to suppress when defendant claimed a police officer talked to him about the Bible and religion and told him he should confess to the police and the Lord based upon the defendant’s signed waiver of rights and his mental state, education, and intelligence).

In *State v. Saint*, this court upheld defendant’s confession, even where officers made extensive religious references, emphasizing the absence of threatening conduct, heightened distress, or evidence that the remarks influenced the defendant’s decision to speak. 284 S.W.3d 340, 343-45 (Tenn. Crim. App. 2008). Here, Defendant continued denying wrongdoing after the “more hell” comment and remained calm throughout the interview, with no signs that the remark affected his ability to make a free choice. Under the totality-of-the-circumstances framework, the “hell” comment does not demonstrate coercion, nor does it show that Defendant’s statements resulted from an overborne will rather than voluntary decision-making.

Finally, Defendant argues Detective Miller coerced him by telling him sperm was found on the victim’s bed linens and by implying samples had been taken from “inside” the victim. The record shows during the May 2020 interview, Detective Miller was operating under what he believed to be accurate forensic results from the TBI and the understanding that standard samples had been taken during K.D.’s medical examination at Our Kids. Importantly, after hearing this evidence, Defendant continued to claim that penetration could not have occurred because of his erectile dysfunction. He did not immediately confess nor alter his narrative in response to the detective’s misunderstanding. Even assuming a mistaken statement, “A police misrepresentation alone does not invalidate an otherwise voluntary confession.” *State v. Stearns*, 620 S.W.2d 92, 96 (Tenn. Crim. App. 1981) (citing *Frazier v. Cupp*, 394 U.S. 731, 739 (1969)). This court has previously held that exaggerations or misrepresentations do not necessarily render a defendant’s confession involuntary. *State v. Watkins*, 648 S.W.3d 235 (Tenn. Crim. App. 2021) (holding that defendant’s confession was voluntary despite detective’s alleged false claims about evidence against defendant, where defendant’s interview was slightly less than one hour long, defendant appeared voluntarily for interview, defendant showed no signs of impairment or distress during interview,

interview was conversational, interview did not involve threats, defendant signed a written *Miranda* waiver, and defendant never tried to end questioning); *McGee*, 451 S.W.2d at 712 (“The fact that officers misrepresent the evidence they have against an accused, while relevant in viewing the totality of circumstances, is not sufficient in this case to invalidate this otherwise competent confession.”); *State v. Gudger*, No. E2023-01798-CCA-R3-CD, 2025 WL 1735154, at *12 (Tenn. Crim. App. June 23, 2025) (holding that officer’s untrue statement that they had recovered the defendant’s semen on two pieces of clothing did not render the defendant’s later statements involuntary), *no perm. app. filed*.

Considering the *Climer* voluntariness test, Defendant was 65 years old, had a GED, possessed prior experience with law enforcement, was not intoxicated or in ill health, had not been deprived of basic needs, and was interviewed in a calm setting with no threats or physical intimidation. The trial court viewed the video recording and found Defendant’s demeanor calm and conversational throughout. Nothing in the record preponderates against these findings. Defendant has failed to show that his statements were involuntary. He is not entitled to relief on this issue.

II. Miranda Warnings and Waiver

Defendant contends he could not read the waiver form without glasses, expressed confusion, was misled into thinking the form only permitted a conversation, and had limited education. He argues these factors prevented a knowing waiver. The State asserts Detective Miller read Defendant his *Miranda* rights aloud multiple times, clarified the rights when asked, ensured Defendant expressed understanding before proceeding, and relied on Defendant’s prior experience with law enforcement.

The Fifth Amendment to the United States Constitution and article I, section 9 of the Tennessee Constitution protect against compelled self-incrimination. *See* U.S. Const. amend. V; Tenn. Const. art. I, § 9. In *Miranda v. Arizona*, the United States Supreme Court established procedural safeguards to secure the Fifth Amendment privilege against self-incrimination. 384 U.S. 436, 444 (1966). To combat the compulsion inherent in a custodial interrogation, the accused must be informed prior to questioning regarding the right to remain silent, that anything he says can be used against him in a court of law, the right to an attorney, and that an attorney will be appointed at no cost prior to questioning upon request. *Climer*, 400 S.W.3d at 557 (citing *Miranda*, 384 U.S. at 479). A defendant may waive his rights under *Miranda* if such waiver is voluntary, knowing, and intelligent. *State v. Echols*, 382 S.W.3d 266, 280 (Tenn. 2012).

The State bears the burden of proving by a preponderance of the evidence that the defendant waived his or her *Miranda* rights. *Climer*, 400 S.W.3d at 564; *see also*

Missouri v. Seibert, 542 U.S. 600, 608 n.1 (2004). This burden is satisfied if based on the totality of the circumstances surrounding the interrogation, it shows that the waiver was voluntary in that “it was the product of a free and deliberate choice rather than intimidation, coercion, or deception,” and was knowing in that it was made “with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it.” *Moran v. Burbine*, 475 U.S. 412, 421 (1986); *North Carolina v. Butler*, 441 U.S. 369, 374-75 (1979); *Colorado v. Spring*, 479 U.S. 564, 573 (1987); *Berghuis v. Thompson*, 560 U.S. 370, 382-83 (2010); *Climer*, 400 S.W.3d at 564-65.

As discussed above, Defendant was not subjected to intimidation, coercion, or deception. Detective Miller clearly told him he could not continue questioning him unless he understood his rights, and Detective Miller did not proceed until Defendant affirmed his understanding. The record reflects that Detective Miller read the *Miranda* warnings to the appellant three times, initially from the rights form, again when Defendant said he did not understand “all of” the rights, and again after Defendant expressed difficulty seeing without his glasses. Detective Miller slowed his pace, restated each right, turned the form toward Defendant, and repeatedly asked whether Defendant understood. Although Defendant stated “not really” during one exchange, he later affirmed understanding after Detective Miller’s repeated explanation. Defendant did not indicate a desire to stop the interview or request counsel. Detective Miller testified that based on his prior interactions with Defendant, he believed Defendant understood the warnings and was capable of reading and signing documents, and the trial court credited this testimony. Nothing in the record suggests Defendant lacked the cognitive ability to understand the rights explained to him. His questions and responses during the recorded interaction were coherent, goal-directed, and reflected his awareness of legal consequences, including asking about jail, surgery, and whether he needed a lawyer.

Under the totality of the circumstances, the State met its burden to show that Defendant knowingly, voluntarily, and intelligently waived his *Miranda* rights. Defendant is not entitled to relief on this issue.

III. Harmless Error

Defendant asserts that without the confession, the evidence was largely circumstantial, and thus, admitting the confession contributed to the verdict. However, even had the trial court erred in denying the Defendant’s suppression motion, a conclusion this court does not reach, any possible error would be harmless beyond a reasonable doubt. The harmless error inquiry examines “whether it appears beyond a reasonable doubt that the error complained of did not contribute to the verdict obtained.” *State v. Rodriguez*, 254 S.W.3d 361, 371 (Tenn. 2008); *see also* Tenn. R. App. P. 36(b).

Here, K.D. testified in clear detail to ongoing sexual abuse, including digital penetration, oral sex, and repeated penile-vaginal penetration. The TBI serology and DNA evidence confirmed the presence of Defendant's semen on a blanket located in an area where K.D. reported Defendant abused her. K.D.'s detailed forensic interview was consistent with her trial testimony and additional corroborating evidence included the bruise on K.D.'s breast documented by medical examiners. Given this volume of overwhelming evidence independent of Defendant's statements, the State has met its burden under *Rodriguez*. 254 S.W.3d at 372; *See State v. Bell*, 512 S.W.3d 167, 195 (Tenn. 2015) (reasoning that "the overall strength of the State's case results in our conclusion that the trial court's erroneous exclusion of [evidence] was harmless beyond a reasonable doubt").

Defendant is not entitled to relief on this issue.

CONCLUSION

Based on the foregoing reasons, the judgments of the trial court are affirmed. However, as noted by the State, there is a conflict between the transcript of the trial court's sentencing order, its written sentencing order, and the judgment forms regarding the consecutive and concurrent nature of the judgments. Thus, we remand to the trial court for clarification of its sentencing ruling, and for any resulting corrections to the judgment forms.

s/ *Jill Bartee Ayers*
JILL BARTEE AYERS, JUDGE