

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs June 16, 2026

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Appellate Courts

STATE OF TENNESSEE v. KEVIN MICHAEL BROWN

Appeal from the Criminal Court for Davidson County
No. 2020-D-2155 Steve R. Dozier, Judge

No. M2025-01124-CCA-R3-CD

Defendant, Kevin Michael Brown, appeals his convictions for seven counts of aggravated sexual exploitation of a minor, seven counts of sexual exploitation of a minor, and two counts of unlawful photography and his effective sentence of nineteen years, eleven months, and twenty-nine days. On appeal, Defendant contends that (1) the evidence is insufficient to support his convictions for sexual exploitation of a minor; (2) the trial court erred in admitting evidence of Defendant's visiting adult pornographic websites and downloading adult pornography pursuant to Tennessee Rule of Evidence 404(b) and that the admission of the evidence, when considered individually and cumulatively, was reversible error; and (3) the trial court erred in ordering partial consecutive sentences. Upon review, we affirm.

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

MATTHEW J. WILSON, J., delivered the opinion of the court, in which ROBERT L. HOLLOWAY, JR., and J. ROSS DYER, JJ., joined.

Adam W. Parrish (on appeal), Lebanon, Tennessee; and Jack Byrd (at trial), Nashville, Tennessee, for the appellant, Kevin Michael Brown.

Jonathan Skrmetti, Attorney General and Reporter; Elizabeth Evan, Assistant Attorney General; Glenn R. Funk, District Attorney General; and Amy Hunter, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

Factual and Procedural History

Defendant was indicted in Counts 1 through 7 on aggravated sexual exploitation of a minor after he attempted to send seven images depicting child sexual abuse to a third party via Snapchat in January and February of 2020. Officers executed a search warrant on his residence and located six additional images and a video recording depicting child sexual abuse on a memory card that was inserted into Defendant's laptop, and, as a result, Defendant was indicted in Counts 8 through 14 with sexual exploitation of a minor. Officers also located videos that Defendant had secretly recorded of his roommate and her girlfriend on Defendant's cell phone, which led to the charges in Counts 15 and 16 on unlawful photography. Defendant's case proceeded to trial in December 2023 during which the following evidence was presented.

Trial

Detective Robert Carrigan with the Metro Nashville Police Department ("MNPd") was assigned to the Sex Crimes Division and the Internet Crimes Against Children Task Force where he investigated child sexual abuse material ("CSAM") exchanged on the internet. He testified that on March 24, 2020, he received a cybertip from the National Center for Missing and Exploited Children ("NCMEC"), which serves as a "clearing house" for internet-related companies to report illegal material found on their servers. Snapchat reported to NCMEC that a user had uploaded seven CSAM images and had attempted to send the images to a third party during a chat media session. Snapchat flagged the images and prevented them from being sent to the intended recipient.

According to Detective Carrigan, the defendant attempted to send one CSAM image via Snapchat on January 20, 2020, and attempted to send the other six CSAM on February 7 or 8, 2020. Detective Carrigan identified and described the images, all of which depicted minors engaged in sexual activity. The first image included a "young teen boy" and a "young teen girl"; the second image included an "infant or very young toddler"; the third and fourth images included a "[t]oddler girl"; the fifth image included an "elementary age girl"; the sixth image included "two young girls"; and the seventh image included a "young elementary age or older toddler age" girl.

As part of the cybertip, Snapchat provided the user's basic subscriber information, including the username and the user's email address, date of birth, and internet protocol ("IP") address. The username was "DevilishDaddy73"; the user's date of birth was November 21, 1973; and the user's email address was kmb112173@gmail.com, which matched Defendant's initials and date of birth. Detective Carrigan issued a series of

judicial subpoenas and/or search warrants to Snapchat; Google, the email provider; and Comcast, the internet provider that assigned the IP address. Google identified the person with the email address listed in the Snapchat account as “Kevin Brown 2,” and the IP address connected to the email address in February 2020 matched the IP address provided by Snapchat. Comcast provided the same subscriber information and the subscriber’s address as an apartment on North Dupont Avenue in Madison, Tennessee. The same address was listed on Defendant’s driver’s license and his electricity records.

The Google records included emails addressed to Defendant, and Detective Carrigan stated that it did not appear that anyone was sharing the email account with Defendant. An email dated February 3, 2020, referenced Defendant’s purchasing a new Samsung Galaxy 10 cell phone, which was the same make and model of the cell phone officers later seized from Defendant pursuant to a search warrant. In April 2019, Defendant received an email from Snapchat setting up the “DevilishDaddy73” account, and on February 10, 2020, Defendant received an email from Snapchat informing him that his account had been deleted due to his violating the terms of service.

Detective Carrigan said that he was able to tie Defendant to the Snapchat account based on the information provided from the Snapchat records. The information included posts where Defendant identified himself by name and his employment, and he posted photographs of himself wearing his MNPd security guard uniform. Detective Carrigan stated that prior to receiving the information from Snapchat, he had not known that Defendant was an MNPd security guard in the same building where the detective’s office was located. As a result, Detective Carrigan took steps to prevent Defendant from accessing the detective’s office during the investigation.

The Snapchat records included GPS coordinates showing that Defendant’s Snapchat account was used on the dates and times during which Defendant was working at the office. Other GPS coordinates showed that Defendant’s Snapchat account was used around the area where Defendant’s apartment was located, including the dates in which the CSAM images were sent from the account.

Detective Carrigan testified that according to the chat logs for Defendant’s Snapchat account, Defendant sent links to others to “[s]ome hardcore pornography that was daddy/daughter incest kind of related stuff.” Defendant exchanged communications with “Luv Bev,” during which he stated that he would “kidnap your sexy a** and bring you to Nashville as my little girl . . . once you turn 18, definitely.” Detective Carrigan read to the jury the communications between Defendant and “Nikki Chey,” which appeared to be “a sex fantasy chat of some sort” during which Defendant was “posting a message as if he’s engaging in sex with a minor.” During the exchange, Defendant provided his name and

his telephone number, which was the same telephone number that the detective previously identified through other records.

On August 12, 2020, Detective Carrigan obtained search warrants for Defendant's cell phone, vehicle, and residence. Defendant was scheduled to work that day, and once he arrived, Detective Carrigan and other officers stopped him and stated that they needed to talk to him about a case. Officers disarmed Defendant, escorted him to an interview room, and collected his cell phone. Although Defendant was not under arrest, Detective Carrigan advised Defendant of his *Miranda* rights, and Defendant waived his rights and agreed to speak to Detective Carrigan and Sergeant Matt Dixon. The interview was video recorded and played for the jury at trial.

During the interview, Defendant stated that he was divorced, that he had three sons, one of whom was a minor and resided with Defendant's ex-wife, and that he had two granddaughters. Defendant affirmed that his email address was the same email address listed on the Snapchat account. He stated that he last accessed Snapchat on the day of the interview using his account name of "Jersey, um, Guy, or something like that." Detective Carrigan asked whether Defendant had another account which Snapchat had locked, and Defendant replied, "I had an account. My phone got hacked. I had to redo my whole phone." He believed his cell phone had been hacked because "[p]eople were getting messages that I wasn't doing and stuff like that." He said that he had to purchase a new cell phone and that he no longer had possession of the cell phone that had been hacked. Although he stated that his cell phone was hacked "a month ago," he also stated that he believed he threw away the cell phone around the time that he purchased a new cell phone in February. Defendant later said his cell phone was hacked "just a little before" he received a notification from Snapchat that his account had been locked, and he believed the hacking was associated with Snapchat. He stated that he did not know why he was locked out of his Snapchat account and that he subsequently created a new account. He explained that he did not report the possibility that someone had hacked into his account to Snapchat because "they wouldn't really do anything about it."

Detective Carrigan testified that the logs he received from Snapchat did not reflect that Defendant sent advertisements or other messages that were outside his usual communications during the time period in which Defendant claimed that his Snapchat account was hacked. The detective stated that had Defendant's Snapchat account been hacked, he would have expected to see a disruption in the IP address used. However, the detective did not see any activity from IP addresses that were not associated with Defendant and his internet service. The detective also did not see any activity in the GPS logs indicating that "somebody someplace else . . . was connecting into that account or logging into the account in any other way."

During the interview, Detective Carrigan informed Defendant that he was locked out of his Snapchat account for posting CSAM images and that Snapchat had reported him to NCMEC. Detective Carrigan showed the cybertip to Defendant, who denied posting or otherwise ever viewing CSAM. Defendant also denied that CSAM would be on his cell phone or his laptop, and he said he accessed his Snapchat account on his cell phone but not on his laptop. Defendant said that no one else used his laptop or knew his password and that no one had hacked into his laptop, which he used for “gaming.” Defendant provided the officers with a password to his laptop, but Detective Carrigan recalled that Defendant did not provide the correct password.

Defendant told Detective Carrigan and Sergeant Dixon that although he never received CSAM from others on Snapchat, he previously had an account on another platform called Kik where someone had sent direct messages containing CSAM to others and had posted CSAM in larger chat groups. Defendant stated that he received direct messages containing CSAM while on Kik “maybe once or twice” but that he blocked the user and reported the images to Kik. He explained that he did not contact the police upon receiving CSAM because he hoped that Kik would contact the police. He stated that he no longer had an account with Kik.

Defendant denied that any CSAM would be found in the deleted space on his laptop. He acknowledged using a program called CCleaner on his laptop to “clear all the memory out, keep it all fresh so the games run.” He also believed he had installed the program on his cell phone. Detective Carrigan testified that CCleaner is a computer program that will clear up space on a computer to make other programs run faster. He stated that although CCleaner is not illegal, some regularly use the program “to cover their tracks and to prevent recovery of some of those previously viewed and deleted images.”

Defendant told the officers that for the past ten years, he had a “personal fetish” involving father and daughter sexual activity, which he referred to as “Daddy Dom Little Girl” or “DDLG.” He stated that he had been communicating his fetish via Snapchat to “girls I know who are adults.” He acknowledged sending a message to someone that said, “once you turn eighteen, definitely. I’m gonna kidnap your sexy a** and bring you to Nashville as my little girl.” He maintained that the message involved “role-playing” to a woman who was pretending to be a minor. Defendant stated that although officers might find images of “younger-looking girls,” the females were not minors but were “role-playing.” He maintained that “the whole daddy/daughter thing . . . goes back to the . . . nurturer, the provider, the, you know, stuff like that” and that “it has nothing to do . . . with minors, anything like that. It’s all strictly that roleplay, that dynamic.” He denied “skirting the edges” of illegality or that the “fetish” was “sexual.” He maintained that the fetish involved “being a caregiver and stuff like that” and that “[i]t gets blown out of f***ing proportion.”

Detective Carrigan testified that the Snapchat records from Defendant's account included other images that were not necessarily illegal but were sexual in nature and "had some meme attachments." The State entered ten such images from Defendant's Snapchat account that were not included as part of the indicted offenses into evidence as Exhibit 16, and the detective described each image. Nine images included females who were nude and/or engaged in sexual activity with another male, and the detective could not determine whether the female in one of the images was an adult or a teenager. One image included a "meme attachment" involving a rape theme, and the other nine images included "meme attachments" involving sexual activity between a father and a daughter.

While Detective Carrigan and Sergeant Dixon were interviewing Defendant, MNPD Detective Michael Adkins and other officers went to Defendant's apartment to execute a search warrant. Detective Adkins communicated with Detective Carrigan and Sergeant Dixon while executing the search warrant, and they told him about an ASUS laptop, which Detective Adkins located and seized. They provided Detective Adkins with one or two passwords for the laptop, but neither password unlocked it. Detective Adkins also seized a SanDisk secure digital card ("SD card") that was inserted into the laptop for secondary storage.

Detective Chad Gish with MNPD's Surveillance and Investigative Support Unit analyzed Defendant's cell phone, laptop, and SD card. Detective Gish affirmed that he found "disturbing material" on the cell phone, and the State entered eight images found on the cell phone that were not charged as part of the indictment into evidence as Exhibit 20. Detective Gish described each image as including a "young girl" or a "young person" who was nude and/or engaged in a sexual act, and many of the images included memes related to sexual acts between a father and a daughter.

Detective Gish testified that also on Defendant's cell phone were "disturbing" videos of Defendant's female roommate and her girlfriend "having intimate moments with each other" that appeared to have been recorded with a hidden camera. Three videos were recorded on July 20, 2020, and four videos were recorded on August 5, 2020.

Detective Gish found six CSAM images and one CSAM video on the SD card, all of which were the subject of the indicted offenses. He described the CSAM as depicting either a "toddler aged female," a "young child," a "prepubescent female," or a "female." The CSAM video depicted a "prepubescent female" engaging in a sexual act with a male. Detective Gish testified that the CSAM images and video had been deleted from the SD card and that he used a method called "data carving" to recover them in the SD card's "unallocated space." He explained that once an image or file has been deleted from a computer or SD card, the image or file remains in the unallocated space until either a new

file is saved on top of the deleted file or an “evidence eliminator program” overwrites the data in the unallocated space to prevent recovery through data mining. Detective Gish was able to recover the CSAM images and video from the SD card before they were overwritten.

Detective Gish also recovered a deleted image of Defendant and a screenshot of what appeared to be a “young female” taken from Snapchat, which also depicted Defendant’s “icon” which included “a live shot of his face.” These images, which were not the subject of the indictment, were entered as Exhibit 22 at trial. Finally, Detective Gish recovered a deleted “erotica story” of sexual fantasies involving females spanning ages twelve, fourteen, and fifteen.

Detective Gish testified that in “nearly all cases,” saving an image from a social media platform such as Snapchat to an SD card would require an intentional act by the user. He stated that while a user could “force” downloads to be automatically saved to an SD card, he “didn’t see any evidence that that took place” in this case.

Detective Gish noted that on June 17, 2020, Defendant installed on his laptop an “evidence eliminator” tool called CCleaner, which overwrites data in unallocated spaces to prevent the recovery of the data. Detective Gish stated that the CSAM images and video found in the unallocated space of the SD card were deleted by Defendant sometime after the CCleaner was last executed on June 28, 2020. Detective Gish would not have been able to recover the CSAM images and video from the unallocated space of the SD card had Defendant executed CCleaner after deleting these CSAM images and video.

Detective Gish believed the laptop was used to connect to Snapchat and upload the CSAM images that were subject to the cybertip to NCMEC. He stated that the CSAM images were uploaded onto Snapchat on February 8, 2020, and that he did not locate any of these CSAM Snapchat images in the unallocated spaces of the laptop and SD card during his August 2020 search of the devices. Detective Gish stated that CCleaner was last executed on the laptop in June 2020 after the CSAM images had been uploaded onto Snapchat and that as a result, he did not expect to find these CSAM images in the unallocated spaces on the laptop or the SD card. Detective Gish acknowledged that he found the Snapchat application on Defendant’s cell phone and not on his laptop and that he found CCleaner on Defendant’s laptop but not on his cell phone.

Both Defendant’s former roommate and her girlfriend testified that they never consented to Defendant’s recording them and that they were unaware that they were being recorded in July and August of 2020. They both recalled the humiliation and betrayal that they felt upon learning of the recordings. They also testified that they never logged onto Defendant’s laptop and that they never saw anyone other than Defendant using the laptop.

At the conclusion of the proof, the jury convicted Defendant of seven counts of aggravated sexual exploitation of a minor as charged in Counts 1 through 7 of the indictment based on the seven CSAM images from Defendant's Snapchat account, seven counts of sexual exploitation of a minor as charged in Counts 8 through 14 based on the six CSAM images and the CSAM video found on the SD card, and two counts of unlawful photography as charged in Counts 15 and 16 based on his recording his roommate and her girlfriend.

Sentencing Hearing

During the sentencing hearing, Detective Adkins testified that on February 5, 2014, he received a cybertip from NCMEC of a CSAM image of a "young girl, prepubescent" and an adult male that had been uploaded onto a Facebook account. Detective Adkins reviewed the Facebook account, which included photographs of Defendant, and the IP address connected to the account was used at Defendant's residence, which was located at the time in Lebanon, Tennessee. Defendant's residence at the time was located outside Detective Adkins's jurisdiction, so Detective Adkins forwarded his information to the Lebanon Police Department. Detective Adkins believed there was sufficient evidence to continue the investigation, but he later learned that Defendant was never charged with an offense resulting from the cybertip.

The State also submitted Defendant's presentence report, which showed that the fifty-year-old Defendant had no prior record of criminal convictions. He also previously served in the Army and had been honorably discharged. The Strong-R Assessment showed that Defendant had a low risk to reoffend. Defendant also submitted seven letters of support from friends and family members.

The trial court took the matter under advisement and entered a sentencing order on May 13, 2024. The court stated that in imposing a sentence, the court considered the evidence presented at the sentencing hearing, the presentence report, the principles of sentences and arguments as to sentencing alternatives, the nature and characteristics of the criminal conduct involved, the evidence and information offered by the parties regarding enhancement and mitigating factors, statistical information provided by the Tennessee Administrative Office of the Courts as to sentencing practices for similar offenses in Tennessee, statements made on Defendant's behalf regarding sentencing, and the result of the validated risk and needs assessment. The court found that because Defendant had no prior criminal convictions, he was a Range I offender.

The court applied enhancement factor (1), Defendant had "a previous history of criminal convictions or criminal behavior, in addition to those necessary to establish the

appropriate range[.]” to Defendant’s convictions in Counts 1 through 14. Tenn. Code Ann. § 40-35-114(1). The court noted that although Defendant did not have any prior criminal convictions, Detective Adkins’s testimony established that Defendant had engaged in additional criminal behavior. The court found that the State established by a preponderance of the evidence that in 2014, Defendant uploaded a CSAM image from his Facebook account using his home internet network. The court concluded that the allegation “reflect[ed] several years between criminal behaviors, and although the court did not “infer continual criminal activity occurred between 2014 and Defendant’s arrest in 2020,” the court “observe[d] a persistence to Defendant’s behavior.”

The court also applied enhancement factor (3), “[t]he offense involved more than one (1) victim[.]” to all convictions; enhancement factor (4), “[a] victim of the offense was particularly vulnerable because of age[.]” to Defendant’s convictions for aggravated sexual exploitation of a minor in Counts 2, 3, 4, 6, and 7 and his convictions for sexual exploitation of a minor in Counts 8, 9, and 10; and enhancement factor (7), “[t]he offense involved a victim and was committed to gratify the defendant’s desire for pleasure or excitement[.]” to Counts 1 through 14. Tenn. Code Ann. § 40-35-114(3), (4), (7). The trial court made factual findings and assigned differing weights to each enhancement factor. The court determined that no mitigating factors applied. The court noted that although the letters of support filed on Defendant’s behalf addressed his service to his family, community, and country, only one letter “somewhat acknowledged the basis of the crimes for which he has been convicted.” The court gave “no substantial weight” to the character references.

The court recognized that as a Range I offender, Defendant was subject to a sentencing range of three to six years for each conviction of aggravated sexual exploitation of a minor, a Class C felony; a sentencing range of two to four years for each conviction of sexual exploitation of a minor, a Class D felony; and a sentence of eleven months and twenty-nine days for each unlawful photography conviction, a Class A misdemeanor. *See* Tenn. Code Ann. §§ 39-13-605(d)(1) (2018); 39-17-1003(d); 39-17-1004(a)(4); 40-35-111(e)(1); 40-35-112(a)(3), (4). Regarding the convictions for aggravated sexual exploitation of a minor, the court imposed sentences of three years in Count 1; four years for each conviction in Counts 2, 3, 5, and 6; and five years for each conviction in Counts 4 and 7. Regarding the convictions for sexual exploitation of a minor, the court imposed sentences of two years for each conviction in Counts 8 through 13 and three years for the conviction in Count 14. The court imposed sentences of eleven months and twenty-nine days for each unlawful photography conviction. The court ordered Defendant to serve his sentences in confinement.

The court also imposed partial consecutive sentences, finding that Defendant had an extensive record of criminal activity. *See* Tenn. Code Ann. § 40-35-115(b)(2). Although the court acknowledged that Defendant did not have a prior record of criminal

convictions, the court considered the multiple convictions in the instant case as part of an “extensive record.” The court reasoned:

Defendant espoused this criminal activity back to 2014 when a NCMEC report initially warned that an account controlled by and registered to Defendant was used to upload an image depicting a young, prepubescent female in sexually explicit conduct with an adult male. The convictions for Counts 1 to 14 involved a multitude of victims in which proof showed that Defendant interacted with images on more than a single occasion.

The court further explained:

The jurors in the trial considered vile and disturbing imagery of young children in explicit sexual situations, including actual rape. While the Court notes that Defendant did not create this execrable content and none of the children in the imagery were produced as victims, the later entity of “society” remains a victim to these types of crimes. Every indictment handed down includes the Tennessee Constitutional requirement that the described acts are “against the peace and dignity of the State.” Tenn. Const. art. VI, § 12. The Court can think of few examples where the peace and dignity of Tennessee’s citizenry are more subverted than by trafficking in images of violent sexual content against children.

The court imposed the following partial consecutive “sentencing regime”:

Count(s)	Offense	Alignment	Sentence
1-3, 5, 6	Aggravated sexual exploitation of a minor	Concurrent with each other	4 years
4	Aggravated sexual exploitation of a minor	Consecutive to Counts 1-3, 5, 6	5 years
7	Aggravated sexual exploitation of a minor	Consecutive to Count 4	5 years
8-13	Sexual exploitation of a minor	Concurrent with each other and consecutive to Count 7	2 years
14	Sexual exploitation of a minor	Consecutive to Counts 8-13	3 years
15-16	Unlawful photography	Concurrent with each other and consecutive to Count 14	11 months, 29 days

The court imposed an effective sentence of nineteen years, eleven months, and twenty-nine days to be served in confinement. In doing so, the court concluded that the sentences were “justly deserved in relation to the seriousness of the offenses.”

Defendant filed a motion for new trial and an amended motion, both of which the trial court denied following a hearing on June 26, 2025. Defendant then filed a notice of appeal.

Analysis

I. Sufficiency of the Evidence

Defendant challenges the sufficiency of the evidence for his convictions of sexual exploitation of a minor in Counts 8 through 14.¹ We review a challenge to the sufficiency of the convicting evidence to determine whether, “after viewing the evidence in the light most favorable to the prosecution” and providing the State with “the strongest legitimate view of the evidence as well as all reasonable and legitimate inferences which may be drawn therefrom,” “any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.” *Jackson v. Virginia*, 443 U.S. 307, 319 (1979) (citations omitted); *State v. Davis*, 354 S.W.3d 718, 729 (Tenn. 2011) (citations omitted); Tenn. R. App. P. 13. Our review “is identical whether the conviction is predicated on direct or circumstantial evidence, or a combination of both.” *State v. Williams*, 558 S.W.3d 633, 638 (Tenn. 2018) (citing *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011)). Importantly, a guilty verdict removes the presumption of innocence and replaces it with one of guilt on appeal, shifting the burden to the defendant to demonstrate why the evidence is legally insufficient to support the conviction. *Davis*, 354 S.W.3d at 729 (citing *State v. Sisk*, 343 S.W.3d 60, 65 (Tenn. 2011)).

We must decline any invitation to revisit witness credibility or any purported discrepancies in the evidence because the jury, not this court, resolves all questions involving the credibility of the witnesses, the weight and value to be given to evidence, and the factual disputes raised by such evidence. *See Dorantes*, 331 S.W.3d at 379 (citing *State v. Campbell*, 245 S.W.3d 331, 335 (Tenn. 2008)). Accordingly, this court will neither reweigh nor reconsider the evidence when evaluating the sufficiency of the convicting proof. *State v. Stephens*, 521 S.W.3d 718, 724 (Tenn. 2017).

¹ Defendant does not challenge the sufficiency of the evidence supporting his convictions for aggravated sexual exploitation of a minor in Counts 1 through 7 and unlawful photography in Counts 15 and 16.

Counts 8 through 14 of the indictment, which charged sexual exploitation of a minor based on the CSAM images and video recovered from the SD card, alleged that Defendant, “on the 12th day of August, 2020, in Davidson County, Tennessee and before the finding of this indictment, did knowingly possess material that included a minor engaged in sexual activity, in violation of Tennessee Code Annotated § 39-17-1003, and against the peace and dignity of the State of Tennessee.” Defendant contends that based on the language in the indictment, the State was required to prove that he knowingly possessed the CSAM on August 12, 2020, the date alleged in the indictment. Defendant maintains that because the evidence established that the CSAM had been deleted from the SD card prior to law enforcement’s seizure of the SD card and laptop on August 12, the State failed to prove that he knowingly possessed the CSAM on August 12. The State responds that the date of possession is not an element of the offense of sexual exploitation of a minor and that, therefore, the State was not required to prove the date on which Defendant knowingly possessed the CSAM. The State further argues that regardless of the date, the evidence established that Defendant knowingly possessed the CSAM.

“[T]he essential elements of a crime that must be alleged and proven are those established by a statute.” *State v. Fletcher*, No. E2022-01319-CCA-R3-CD, 2024 WL 4274212, at *8 (Tenn. Crim. App. Sept. 24, 2024) (citing *State v. March*, 293 S.W.3d 576, 589 (Tenn. Crim. App. 2008)), *perm. app. denied* (Tenn. Feb. 20, 2025). Additional facts included in an indictment may be disregarded as “surplusage” when “(1) the indictment otherwise sufficiently informs the defendant of the charge against him such that he will not be misled and can adequately plan a defense[;] and (2) the variance is such that the defendant cannot be prosecuted again for the same offense due to double jeopardy principles.” *Id.* (quoting *State v. Mayes*, 854 S.W.2d 638, 641 (Tenn. 1993)). Surplusage “cannot enlarge the essential elements of the offense” and may be “disregarded in analyzing the sufficiency of the convicting evidence.” *Id.* (quoting *March*, 293 S.W.3d at 589).

Tennessee Code Annotated section 39-11-201(a)(4) provides in pertinent part that a person may not be convicted of an offense unless proven beyond a reasonable doubt that “[t]he offense was committed prior to the return of the formal charge.” Code section 40-13-207 further provides:

The time at which the offense was committed need not be stated in the indictment, but the offense may be alleged to have been committed on any day before the finding of the indictment, or generally before the finding of the indictment, unless the time is a material ingredient in the offense.

“Thus, unless the time of the offense is material, it does not have to be specifically stated in the indictment; an indictment is sufficient if it alleges that the offense occurred sometime

prior to the return of the indictment.” *State v. Brown*, 53 S.W.3d 264, 278 (Tenn. Crim. App. 2000). “[E]xcept where a special date is essential or time is of the essence of the offense, the time of the commission of the offense averred in the indictment is not material and proof is not confined to the time charged.” *Id.* (quoting *State v. West*, 737 S.W.2d 790, 792 (Tenn. Crim. App. 1987); *Prince v. State*, 529 S.W.2d 729, 733 (Tenn. Crim. App. 1975)).

The offense of sexual exploitation of a minor is defined by statute as the knowing possession of material that includes a minor engaged in “[s]exual activity” or “[s]imulated sexual activity that is patently offensive.” Tenn. Code Ann. § 39-17-1003(a). Under the plain language of the statute, the date on which a defendant knowingly possesses CSAM is not an essential element of the crime of sexual exploitation of a minor. Rather, the date included in Counts 8 through 14 of the indictment “merely serve[d] to describe the offense charged and form[ed] no part of its substance.” *Fletcher*, 2024 WL 4274212, at *9 (quoting *Mayes*, 854 S.W.2d at 640). There is nothing in the record suggesting that the date in the indictment misled Defendant or otherwise hindered his defense at trial. *See id.* Thus, the jury was not limited to considering whether the proof established that Defendant knowingly possessed the CSAM on a single day, August 12, 2020. Rather, the jury needed only to find that Defendant knowingly possessed the CSAM recovered from the SD card sometime prior to the finding of the indictment.

Furthermore, we conclude that the evidence presented at trial, when viewed in the light most favorable to the State, was sufficient to establish that Defendant knowingly possessed the CSAM that was deleted from the SD card and subsequently was recovered in the unallocated portion of the card. “[A] person acts knowingly with respect to the conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist.” Tenn. Code Ann. § 39-11-106(23); *see State v. Pickett*, 211 S.W.3d 696, 705 (Tenn. 2007) (utilizing this definition of “knowingly” in examining the offense of sexual exploitation of a minor). The term “possess” means “[t]o have in one’s actual control; to have possession of,” and the term “possession” means “[t]he fact of having or holding property in one’s power; the exercise of dominion over property.” *Pickett*, 211 S.W.3d at 705 (quoting *Black’s Law Dictionary* 1201 (8th ed. 2004)). “Because the possession contemplated by the statute must be ‘knowing,’ a person who inadvertently stumbles upon child pornography would not be guilty of a crime under the terms of the statute.” *Id.* In a prosecution for sexual exploitation of a minor,

the trier of fact may consider the title, text, visual representation, internet history, physical development of the person depicted, expert medical testimony, expert computer forensic testimony, and any other relevant evidence, in determining whether a person knowingly possessed the material,

or in determining whether the material or image otherwise represents or depicts that a participant is a minor.

Tenn. Code Ann. § 39-17-1003(c).

The evidence presented at trial established that Defendant acknowledged that he had a “fetish” that involved sexual activity between a father and a daughter and that he viewed material and communicated with others regarding the “fetish.” Although he maintained that the material and communication involved roleplaying between adults, he communicated with at least one individual regarding his plans with her once she reached the age of eighteen. He attempted to send CSAM images via Snapchat and read material involving sexual activity with minors. Officers seized Defendant’s laptop and an SD card that was inserted in the laptop while executing a search warrant on August 12, 2020. Detective Gish recovered six CSAM images and one CSAM video from the unallocated portion of the SD card, which indicated that the files had been deleted. Even if Defendant could not have accessed the CSAM while the CSAM was in the unallocated space of the SD card, Detective Gish’s testimony established that Defendant would have had to intentionally and manually save the CSAM to the SD card before he subsequently deleted the material. The jury could reasonably conclude that Defendant exercised dominion and control over the CSAM by manually saving the CSAM to the SD card and then subsequently deleting the material. *See State v. Aguilar*, 437 S.W.3d 889, 903 (Tenn. Crim. App. 2013) (concluding that the evidence was sufficient to establish that the defendant knowingly possessed CSAM, most of which was found in the unallocated space on the defendant’s computer, when the defendant manually downloaded the material onto his computer and subsequently deleted the material); *State v. Pickett*, No. M2004-00732-CCA-R3-CD, 2005 WL 2438385, at *7 (Tenn. Crim. App. Oct. 3, 2005) (holding that the evidence sufficiently established that the defendant knowingly possessed CSAM stored in his computer’s unallocated space where the defendant accessed images from child pornography sites that were stored in his computer’s temporary internet files and then deleted some of the images from his temporary internet files), *aff’d*, 211 S.W.3d 696 (Tenn. 2007). Accordingly, we conclude that the evidence was sufficient to support Defendant’s convictions for sexual exploitation of a minor in Counts 8 through 14.

II. Tennessee Rule of Evidence 404(b)

Defendant challenges the trial court’s decision to admit testimony regarding Defendant’s accessing adult pornographic material and communicating with others about sexual fetishes pursuant to Tennessee Rule of Evidence 404(b). Defendant also challenges the court’s decision to admit adult pornographic images found in Defendant’s Snapchat records, which were entered as Exhibit 16 at trial pursuant to Rule 404(b). He maintains that the introduction of the evidence “significantly prejudiced [his] right to a fair and

impartial jury, by allowing the State to repeatedly ‘infer’ and[/]or ‘reinforce’ the characterization of [Defendant] as a dangerous deviant with predatory predilections.” Defendant contends that the erroneous admission of the evidence when viewed either individually or cumulatively was not harmless and warrants reversal of his convictions. The State responds that Defendant waived the issue regarding the admissibility of the testimony by failing to object to the testimony at trial and by failing to raise the issue in his motion for new trial. The State further responds that the trial court did not abuse its discretion in admitting the images from Defendant’s Snapchat records as Exhibit 16 and that any error was harmless.

A. Trial Proceedings

On the same day on which the trial began, Defendant filed a motion to exclude all evidence of any other crimes, wrongs, or acts pursuant to Rule 404(b). No discussion of the motion appears in the appellate record on the first day of the trial. During the first day of trial, Detective Carrigan testified during direct examination and without objection by Defendant regarding the contents of the chat logs from Defendant’s Snapchat account.

During a jury-out hearing on the morning of the second day of trial, the State provided the trial court with a disk of images obtained from Defendant’s cell phone and SD card that were not charged in the indictment. The State announced that it was seeking to present the images through Detective Gish as evidence of Defendant’s intent and knowledge in possessing the images charged in the indictment. The trial court referenced an objection that occurred “yesterday” regarding the admissibility of other images and questioned whether at some point, the images could be considered cumulative and, thus, prejudicial. The court stated that it would hear testimony from Detective Gish during a jury-out hearing before ruling on the admissibility of the images from Defendant’s cell phone and SD card.

After the jury-out hearing, the State continued questioning Detective Carrigan on direct examination. The State played the recording of Defendant’s statement to the police, and Detective Carrigan offered testimony regarding the websites Defendant had admitted to visiting. Detective Carrigan testified that during the interview, he questioned Defendant about other images on his Snapchat account that were “not necessarily illegal” but were “sexual in nature and had some meme attachments.” The State sought to enter ten of the images from Defendant’s Snapchat records into evidence, and defense counsel announced that he “[r]enew[ed] our objection.”

During a bench conference, the trial court asked whether the images involved “the objection that we discussed yesterday.” The State affirmed that the images that it was seeking to present through Detective Carrigan were the unindicted images from

Defendant's Snapchat records that they had discussed "yesterday." The trial court questioned whether there should be "any changes to that other ruling" in light of the fact that the State also was seeking to admit unindicted images from Defendant's cell phone and SD card. Defendant questioned the prejudicial effect of admitting the images, and the trial court stated, "Well, and I've got some that are going to be excluded, but I will hear from you all before we do that." The trial court then allowed the State to present the ten images from Defendant's Snapchat records as Exhibit 16 and Detective Carrigan's testimony regarding the images.

Following the conclusion of Detective Carrigan's testimony, the trial court held a hearing outside the jury's presence regarding the admissibility of the unindicted images from Defendant's cell phone and the unallocated portion of the SD card. Of the twenty-nine additional images that the State sought to admit, the trial court found that two of the images on the cell phone were "selfies" of Defendant, did not involve bad acts, and corroborated evidence of ownership of the items. The court noted that the other images were "sexual in nature" and were relevant to Defendant's intent and knowledge and to rebut Defendant's statements to the police. The court found that some of the images were "potentially unfairly prejudicial" in that they included similar "memes" as those images that had already been admitted at trial and excluded eighteen images. The court also found that the probative value of the remaining images outweighed any danger of unfair prejudice and concluded that the State could admit the remaining eleven images. The State admitted the images from Defendant's cell phone that were not the subject of the indictment as Exhibit 20 and the images from Defendant's SD card that were not the subject of the indictment as Exhibit 22.

B. Analysis

"Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity with the character trait." Tenn. R. Evid. 404(b). In Tennessee, Rule 404(b) has been described as a rule of exclusion rather than inclusion. *State v. Jones*, 450 S.W.3d 866, 891 (Tenn. 2014). "Trial courts have been encouraged to take a 'restrictive approach of [Rule] 404(b) . . . because "other act" evidence carries a significant potential for unfairly influencing a jury.'" *Id.* (quoting *State v. Dotson*, 254 S.W.3d 378, 387 (Tenn. 2008)). Evidence of other acts may be admissible for other non-propensity purposes, such as "to establish motive, intent, identity, absence of mistake, or common plan or scheme," or contextual background. *State v. Little*, 402 S.W.3d 202, 210 (Tenn. 2013), *abrogated on other grounds by State v. Thomas*, 687 S.W.3d 223 (Tenn. 2024); *see* Tenn. R. Evid. 404(b), Advisory Comm'n Cmts. Evidence may be admitted for these purposes if the requirements set forth in Rule 404(b) have been met.

On appeal, Defendant challenges the admission of Detective Carrigan's testimony regarding Defendant's accessing adult pornographic and sexual fetish websites and his participating in chatrooms during which he discussed what he described as "role play." Defendant also challenges the admission of Exhibit 16, ten pornographic images from his Snapchat account that were not part of the indicted charges and were not established as being illegal.

As noted by the State, Defendant did not contemporaneously object to the admission of Detective Carrigan's testimony at trial, and he did not challenge the admission of Detective Carrigan's testimony in his motion or amended motion for new trial. Rather, Defendant alleged in his amended motion for new trial that the trial court "ruled in error in permitting the State to introduce numerous images depicting *adult* sexual content." (Emphasis in original.). Accordingly, Defendant has waived plenary review on appeal of the admission of Detective Carrigan's testimony at trial. See Tenn. R. App. P. 3(e), 36(a); *State v. Harbison*, 539 S.W.3d 149, 164 (Tenn. 2018). Defendant did not file a reply brief responding to the State's waiver argument, and he did not otherwise request review under plain error. See *State v. Funk*, No. E2022-01367-CCA-R3-CD, 2023 WL 7130289, at *3 (Tenn. Crim. App. Oct. 30, 2023) ("[A] party seeking plain error relief must generally raise and argue the issue in the party's briefing, just as the party would do with all other issues in the ordinary course of an appeal."). "Where a defendant fails to respond to a waiver argument, only particularly compelling or egregious circumstances could typically justify our sua sponte consideration of plain error relief." *State v. Thompson*, No. W2022-01535-CCA-R3-CD, 2023 WL 4552193, at *5 (Tenn. Crim. App. July 14, 2023). Because no "particularly compelling or egregious circumstances" exist, we decline to review for plain error Defendant's claim regarding the admission of Detective Carrigan's testimony.

We note that the appellate record includes a transcript of the jury-out hearing during which the trial court addressed the admissibility pursuant to Rule 404(b) of Exhibits 20 and 22, images from Defendant's cell phone and SD card, but Defendant does not challenge the admission of these exhibits as an issue on appeal. During the various jury-out hearings, the trial court and the parties referenced a hearing that occurred on the first day of the trial during which the trial court addressed the admissibility of Exhibit 16, the images found on Defendant's Snapchat account. However, the appellate record does not include a transcript of that hearing or the trial court's findings in ruling upon the admission of the images in Exhibit 16 pursuant to Rule 404(b). The appellant has a duty to prepare a record that conveys "a fair, accurate and complete account of what transpired with respect to those issues that are the bases of appeal." Tenn. R. App. P. 24(b). "Where . . . the record is incomplete, and does not contain a transcript of the proceedings relevant to an issue presented for review, or portions of the record upon which a party relies, this Court is precluded from considering the issue." *State v. Roberts*, 755 S.W.2d 833, 836 (Tenn. Crim. App. 1998) (citing *State v. Groseclose*, 615 S.W.2d 142, 147 (Tenn. 1981); *State v. Jones*,

623 S.W.2d 129, 131 (Tenn. Crim. App. 1981)). “In the absence of an adequate record on appeal, we must presume that the trial court’s ruling was supported by the evidence.” *State v. Bibbs*, 806 S.W.2d 786, 790 (Tenn. Crim. App. 1991) (citing *Smith v. State*, 584 S.W.2d 811, 812 (Tenn. Crim. App. 1979); *Vermilye v. State*, 584 S.W.2d 226, 230 (Tenn. Crim. App. 1979)). Due to the absence of the transcript, the appellate record is inadequate to facilitate our review, and we must presume that the trial court’s ruling was supported by the evidence.

Furthermore, we conclude that any error in the admission of Exhibit 16 was harmless. Evidentiary errors, including errors in admitting evidence pursuant to Rule 404(b), are non-constitutional errors subject to the harmless error analysis in Tennessee Rule of Appellate Procedure 36(b). *State v. Clark*, 452 S.W.3d 268, 287 (Tenn. 2014). Thus, “the defendant bears the burden of showing that the erroneous evidence ‘more probably than not’ affected the verdict.” *Id.* at 287-88 (quoting Tenn. R. App. P. 36(b)). In reviewing for harmless error, “[t]he crucial consideration is what impact the error may reasonably have had on the jury’s decision-making process.” *Id.* at 288. We must review the entire record to determine the evidentiary basis for the jury’s verdict. *Id.* Generally, “the more evidence there is to support the defendant’s guilt, the more likely it will be that the error was harmless.” *Id.* (citing *State v. Rodriguez*, 254 S.W.3d 361, 371-72 (Tenn. 2008)). However, “[w]hen the error more probably than not had a substantial and injurious impact on the jury’s decision-making process, it is not harmless.” *Id.*

The CSAM that was the subject of the charges was extremely graphic and depicted images of sexual abuse of children as young as toddlers. At trial, Defendant did not challenge the images and video as not depicting CSAM. Rather, his defense at trial was that he did not knowingly possess the CSAM and did not attempt to send CSAM through Snapchat. The record reflects that this defense centered upon Defendant’s viewing adult pornography. Defense counsel argued during opening statements that Defendant visited adult pornographic websites and chatroom “constantly” and had “thousands of images,” that participants in the chatrooms sent images to Defendant, that he immediately deleted the images and “reported it to the server,” and that he did not know that the images “went to a deleting cache” and could later be recovered. Defendant also claimed that his Snapchat account had been hacked.

However, the evidence presented at trial overwhelmingly established that Defendant knowingly possessed CSAM images. Although Defendant told officers that his Snapchat account was hacked, the GPS coordinates from Defendant’s Snapchat records showed that on the dates on which the CSAM images subject to Counts 1 through 7 were sent from Defendant’s Snapchat account, the account was accessed in the area where Defendant’s apartment was located. Detective Carrigan said the GPS log did not indicate that “somebody someplace else . . . was connecting into that account or logging into that

account in any other way,” and he did not see any activity from IP addresses that were not associated with Defendant’s internet service. The Snapchat records reflected no advertisements or other messages outside Defendant’s usual communications sent from his Snapchat account during the period in which he claimed he was hacked.

The CSAM images that were the subject of Counts 8 through 14 were found in the unallocated space on Defendant’s SD card, which according to the evidence presented at trial, required that Defendant intentionally download and save the images from a social media platform to the SD card and later delete them. The SD card was connected to Defendant’s laptop, and the evidence presented at trial established that no one other than Defendant had accessed the laptop. Officers also found the videos of Defendant’s roommate and her girlfriend on Defendant’s cell phone, and both his roommate and her girlfriend testified that they were unaware that Defendant recorded them prior to the officers’ discovery and that he did not have permission to do so.

Finally, we note that on appeal, Defendant does not challenge the admission at trial of Exhibits 20 and 22, images found on his cell phone and SD card that were similar to those images in Exhibit 16. In light of the admission of these other images, Defendant’s theory of defense at trial, and the overwhelming evidence supporting the convictions, we cannot conclude that any error in the admission of the images in Exhibit 16 “more probably than not” affected the verdict. Tenn. R. App. P. 36(b). Defendant is not entitled to relief regarding this issue.

Defendant also raises a claim of cumulative error, asserting that “even if the Court were to determine the Trial Court’s separate and distinct rulings to allow introduction of those contested images does not give rise to a finding of an ‘abuse of discretion,’ . . . the cumulative effect of those individual rulings significantly prejudiced [Defendant’s] right to a fair trial entitling him to relief.” The cumulative error doctrine applies when there have been “multiple errors committed in trial proceedings, each of which in isolation constitutes mere harmless error, but which when aggregated, have a cumulative effect on the proceedings so great as to require reversal in order to preserve a defendant’s right to a fair trial.” *State v. Hester*, 324 S.W.3d 1, 76 (Tenn. 2010). The doctrine requires the existence of more than one actual error before it may be applied. *Id.* at 77. We have concluded that Defendant has waived the issue of the admission of Detective Carrigan’s testimony and that Defendant has failed to present an adequate record to review his claim that the trial court erroneously admitted the images in Exhibit 16 into evidence. We have further concluded that any error in the admission of the images in Exhibit 16 is harmless, and, therefore, Defendant has failed to establish that he is entitled to relief based on cumulative error.

III. Consecutive Sentencing

Defendant challenges the trial court's decision to impose partial consecutive sentences. He asserts that the trial court erred in ordering that his sentence for Count 4 be served consecutively to his sentences for Counts 1, 2, 3, 5, and 6 and in ordering that his sentence for Count 14 be served consecutively to his sentences for Counts 8 through 13. Defendant does not challenge the trial court's decisions to run Defendant's sentence for Count 7 consecutively to his sentence for Count 4, his sentences for Counts 8 through 13 consecutively to his sentence for Count 7, and his sentences for Counts 15 and 16 consecutively to his sentence for Count 14. The State responds that the trial court did not abuse its discretion in imposing partial consecutive sentences. We agree with the State.

We review the length and manner of service of within-range sentences imposed by the trial court under an "abuse of discretion standard with a 'presumption of reasonableness.'" *State v. Bise*, 380 S.W.3d 682, 708 (Tenn. 2012). "A trial court abuses its discretion when it applies incorrect legal standards, reaches an illogical conclusion, bases its ruling on a clearly erroneous assessment of the proof, or applies reasoning that causes an injustice to the complaining party." *State v. Phelps*, 329 S.W.3d 436, 443 (Tenn. 2010). Our supreme court has stated that "the abuse of discretion standard of appellate review accompanied by a presumption of reasonableness applies to all sentencing decisions." *State v. King*, 432 S.W.3d 316, 324 (Tenn. 2014) (citing *State v. Pollard*, 432 S.W.3d 851, 864 (Tenn. 2013)). This standard also applies to "questions related to probation or any other alternative sentence," *State v. Caudle*, 388 S.W.3d 273, 279 (Tenn. 2012), as well as to a trial court's decision to impose consecutive sentencing, *see Pollard*, 432 S.W.3d at 860.

Nevertheless, to be afforded deference on appeal, the trial court must "place on the record any reason for a particular sentence." *Bise*, 380 S.W.3d at 705. We will uphold the trial court's sentencing decision on appeal "so long as it is within the appropriate range and the record demonstrates that the sentence is otherwise in compliance with the purposes and principles listed by statute." *Id.* at 709-10; *see Pollard*, 432 S.W.3d at 862 ("So long as a trial court properly articulates reasons for ordering consecutive sentences, thereby providing a basis for meaningful appellate review, the sentences will be presumed reasonable and, absent an abuse of discretion, upheld on appeal.") A defendant bears the burden of proving that the sentence is improper. *See State v. Ashby*, 823 S.W.2d 166, 169 (Tenn. 1991).

A trial court may order multiple sentences to run consecutively if it finds by a preponderance of evidence that any one or more of the factors listed in Tennessee Code Annotated section 40-35-115(b) applies, including the factor that the trial court found in

this case: Defendant was an offender whose record of criminal activity was extensive. Tenn. Code Ann. § 40-35-115(b)(2). Consecutive sentencing also is “guided by the general sentencing principles providing that the length of a sentence be ‘justly deserved in relation to the seriousness of the offense’ and ‘no greater than that deserved for the offense committed.’” *State v. Imfeld*, 70 S.W.3d 698, 708 (Tenn. 2002) (quoting Tenn. Code Ann. §§ 40-35-102(1), -103(2)).

Defendant does not challenge the trial court’s finding that he was an offender whose record of criminal activity was extensive.² See Tenn. Code Ann. § 40-35-115(b)(2). Rather, Defendant asserts that because the image in Count 4 was sent via Snapchat on the same date and at the same time as the images in Counts 1, 2, 3, 5, and 6, his sentence for Count 4 should run concurrently with the sentences for those other counts. Defendant further asserts that the trial court’s “imposition of consecutive sentencing for Counts 4 and 14 is not premised upon any factual or legal consideration, but [is] merely punitive in nature and as such does not comply with the statutory sentencing provisions required by Tenn. Code Ann. § 40-35-102(1), and Tenn. Code Ann. § 40-35-103(2).”

Defendant cites to no authority to support his claim that concurrent sentences for Counts 1 through 6 were required because the offenses occurred on the same date. He also fails to explain how the trial court’s findings were “merely punitive in nature.” Rather, the trial court’s sentencing order reflects that its decision to impose partial consecutive sentences was based on a careful analysis of the facts and circumstances relating to the offenses and to Defendant, the principles of sentencing, and the applicable statutes and caselaw. As a result of the trial court’s thorough analysis, the court determined that partial consecutive sentences were warranted and that the aggregate length of the sentence reasonably related to the facts and circumstances of the offenses for which Defendant was convicted. Accordingly, we conclude that the trial court did not abuse its discretion in imposing partial consecutive sentences.

² In his appellate brief, Defendant erroneously states that the trial court imposed partial consecutive sentences based on Tennessee Code Annotated section 40-35-115(b)(5), which provides that a trial court may impose consecutive sentencing where the defendant is convicted of two or more statutory offenses involving the sexual abuse of a minor based on the consideration of numerous aggravating circumstances. However, the trial court’s order clearly states that the court ordered partial consecutive sentences upon finding that Defendant was an offender whose record of criminal activity was extensive pursuant to Code section 40-35-115(b)(2).

Conclusion

Upon reviewing the record, the parties' briefs, and the applicable law, we affirm the judgments of the trial court.

s/ Matthew J. Wilson
MATTHEW J. WILSON, JUDGE