

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT NASHVILLE

Assigned on Briefs August 11, 2026

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Clerk of the  
Appellate Courts

**STATE OF TENNESSEE v. MICHAEL STEPHEN BAUCOM, JR.**

**Appeal from the Criminal Court for Davidson County**  
**No. 2023-A-348      Khadija Babb, Judge**

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**No. M2025-01425-CCA-R3-CD**

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The Defendant, Michael Stephen Baucom, Jr., pleaded guilty to multiple counts stemming from a series of burglaries under four different indictments. After a sentencing hearing, the trial court sentenced the Defendant as a Range II offender for his conviction of possession of a firearm by a convicted felon based on his two prior felony convictions, one of which was a 2015 conviction for theft of property valued over \$1,000, a Class D felony at the time. On appeal, the Defendant contends the trial court erred when it sentenced him as a Range II offender because, in 2022 when he was sentenced, the theft for which he had been convicted was reclassified to a Class E felony, which would not be an appropriate basis upon which to classify him as a Range II offender. After review, we affirm the trial court's judgments.

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

ROBERT W. WEDEMEYER, P.J., delivered the opinion of the Court, in which ROBERT H. MONTGOMERY, JR., and J. ROSS DYER, JJ., joined.

Timothy Carter, Nashville, Tennessee, for the appellant, Michael Stephen Baucom, Jr.

Jonathan Skrmetti, Attorney General and Reporter; Caroline Weldon, Assistant Attorney General; Glenn Funk, District Attorney General; Macy Pesavento, Assistant District Attorney General, for the appellee, State of Tennessee.

**OPINION**

**I. Facts**

This case arises from a plea agreement disposing of multiple charges against the Defendant in four sets of indictments. Those convictions, taken in total, were for one count of possession of a firearm by a convicted felon, seven counts of burglary, four counts of

attempted burglary, six counts of theft of property, ten counts of vandalism, four counts of possession of burglary tools, one count of theft of property, one count of theft of a firearm, one count of evading arrest, and one count of driving while his driving privileges were revoked.

At the guilty plea hearing, the trial court explained the charges to which the Defendant was pleading guilty and the potential sentencing ranges of each of those charges. The trial court ensured that the Defendant had spoken with his attorney regarding each of the charges. The State informed the trial court, “[T]he only agreement will be that all of those . . . counts are to run concurrent to each other, but with Your Honor to determine the length of sentence and the manner of service.” The Defendant said he had discussed the plea with his counsel. The trial court went over each of the Defendant’s rights, and the Defendant acknowledged that he understood each of his rights.

The State then provided the following factual basis for the pleas:

In case 2023-A-348 . . . had this case proceeded to trial, the State’s proof would have shown that, on November 10<sup>th</sup> of 2022 between approximately 12:14 and 12:18 a.m., [the Defendant] used a hammer and a crow bar to break the glass in the front door of the Dollar General . . . causing two thousand, one hundred dollars worth of damage to the location’s door.

Once the Defendant entered the store, he attempted to break into the store’s safe, but was unsuccessful. Before he left, he took thirty-eight dollars and eighteen cents worth of merchandise including Swisher Sweet Cigarellos. The Defendant arrived and left the location in a black-colored Nissan Altima with the license plate 922 [redacted]. The store surveillance cameras captured the burglary. And when police checked the license plate for the vehicle, it was registered to a Samuel and Lisa Pugh. . . . [T]he Defendant has a child with the Pughs’ daughter, Brittany.

Detective Steven Rowlett with MNPD posted still shots of the Defendant from the Dollar General video to all MNPD personnel trying to identify the suspect. And Detective Rowlett was informed that the Defendant . . . was the suspect.

That same evening or early morning on November 11<sup>th</sup> of 2022 at approximately 1:00 a.m., the Defendant burglarized Old Hickory Wine and Spirits . . . . He arrived in a black Nissan Altima using a crow bar to pry the front door open causing one thousand dollars worth of property damage. Once he entered that location, he broke open a lottery cash drawer and took four thousand, five hundred and fifty dollars. He also took a cash register that contained somewhere between two hundred and fifty dollars and four

hundred dollars as well as a loaded handgun.

That store also had surveillance footage that captured the burglary. He had already been identified in the prior burglary that same night, and with the same car and the same license plate that Detective Rowlett had identified.

Later on that early morning on November 10<sup>th</sup> [sic] 2022, Officer nelson Hemmingway located a black Nissan Altima with that same license plate number in the area of Shute Lane and Lebanon Pike. That vehicle, he knew to have been reported to have been involved in different burglaries earlier that evening. Officer Hemmingway attempted to pull the car over, but the driver refused to stop and drove away at a high rate of speed. Officer Hemmingway pursued the car until the car reached around a hundred and nine miles an hour. Officer Hemmingway then canceled his pursuit.

The next day on November 11<sup>th</sup> 2022, police executed a search warrant on that Nissan Altima located at . . . Tyler Drive that had been involved in those burglaries. The handgun that was stolen during the burglary of Old Hickory Whine and Spirits was recovered from the vehicle. Also recovered during that search warrant was . . . the stolen cigarettos, the hammer and the crow bar that was used as well as the cash register and other stolen property from both locations.

[The Defendant] also had a revoked driver's license at the time. And during an interview with Detective Rowlett, [the Defendant] admitted that he stole the gun and planned to sell it. He was also a convicted felon at the time for a prior robbery conviction and was therefore prohibited from owning or possessing any firearms. All of this occurred here in Davidson County.

The Defendant thereafter offered his plea of guilty, under case 2023-A-348, to felon in possession of a firearm, burglary, theft under a thousand dollars, vandalism over a thousand dollars, possession of burglary tools, burglary, theft over twenty-five hundred dollars, theft of a firearm, vandalism over a thousand dollars, possession of burglary tools, evading arrest in a vehicle, and driving on a revoked license.

The State stated that, had case 2023-A-349 gone to trial, the evidence would have proven:

On November 5, 2023, the Defendant . . . used a crow bar to force entry into the Kwik Sack located at . . . Lebanon Pike causing approximately two thousand, five hundred and seventeen dollars worth of damage to the location's door.

Once the Defendant entered the store, he took approximately four hundred dollars in cash, five hundred dollars in coins and between twenty-five hundred and twenty-six hundred dollars in various rolls of lottery tickets. The store surveillance cameras captured the burglary. Detectives identified the Defendant from the store surveillance due to him being involved in multiple similar commercial burglaries.

During a recorded interview with the Defendant on November 11<sup>th</sup>, he admitted to his involvement in the burglaries . . . . A search warrant was executed on the vehicle used during the burglary incidents which yielded a crow bar with a black handle in addition to stolen . . . property from the other commercial burglaries. All of this occurred here in Davidson County.

The Defendant offered his plea of guilty, case 2023-A-349, to burglary, theft of property valued over twenty-five hundred dollars, vandalism over twenty-five hundred dollars and possession of burglary tools.

The State then noted that, had case 2023-A-350 gone to trial, the evidence would have proven:

that, on November 3rd of 2022, the Defendant . . . made multiple attempts to break into the fuel station at the Kroger located [on] . . . Lebanon Pike. Video surveillance shows the Defendant arrive in a black Nissan Altima with damage to the front driver's side door. The Defendant put the hood of his car up and would frequently act like he was doing auto maintenance whenever someone would come around.

Once they left, he would grab a crow bar or what appeared to be an axe and tried to pry the fuel station door open. The Defendant was unsuccessful and caused approximately three thousand dollars worth of damage to the location's door. Detectives identified the Defendant due to him being involved in multiple thefts at the same location where the Defendant was using the same vehicle. The Defendant was also wearing the same shoes and hat that he was wearing when he was previously arrested in June of 2022.

Detective Rowlett obtained a search warrant for the Altima that the Defendant drove during a related Dollar General burglary. The execution of that search warrant yielded stolen merchandise along with the crow bar. And during a recorded interview with the Defendant, he admitted to his involvement in the burglary.

In this case, 2023-A-350, the Defendant pleaded guilty to attempted burglary, vandalism

over twenty-five hundred dollars, and possession of burglary tools.

Lastly, the State informed the trial court that had case 2023-A-351 proceeded to trial, the State would have proven:

The Defendant . . . burglarized Murphy's fuel station located on . . . Andrew Jackson Parkway on June 4th 2022, June 6th of 2022 and June 9th of 2022.

In total from all three instances, [the Defendant] stole approximately one thousand, sixty dollars worth of merchandise and caused a total of seven hundred and twenty dollars worth of damage to the store when he broke windows to gain entry.

[The Defendant] attempted to burglarize the Kroger fuel center located [on] . . . Lebanon Pike on June 7th of 2022, June 8th of 2022 and June 9th of 2022. In total from all three of those incidents, [the Defendant] caused three hundred dollars worth of damage to the location after he attempted to break into the store.

And then on June 13th of 2022, [the Defendant] broke into the Twide Daily's located [on] . . . Old Hickory Boulevard. He stole two hundred dollars and one thousand, five hundred and fifty-six dollars worth of cigarettes from the store and also caused five thousand dollars worth of damage to the store's front doors when he broke to gain entry. Surveillance cameras captured all of the above burglaries, and the videos were preserved by the detective.

The Defendant pleaded guilty to four counts of burglary, D felonies, three counts of attempted burglary, three counts of theft over a thousand dollars, one count of theft under a thousand dollars, six counts of vandalism under a thousand dollars, and one count of vandalism over twenty-five hundred dollars.

The trial court then held a sentencing hearing during which the parties presented the following evidence: The State asked that the presentencing report be made a part of the record. Travis Davis, the Correctional Program Director with TDOC's Nashville Day Reporting Center ("DRC"), interviewed the Defendant and drafted a report, noting that the Defendant was admissible to his program should the trial court find that acceptable. In the DRC program, he would receive treatment, therapy, and be drug tested frequently. He could also finish his education.

The Defendant testified that he was fifty-three years old and had worked in the auto body and paint industry since he was sixteen years old. He said that he had a number of felony convictions in his criminal history and had, at one point, served sixty months in

prison. While incarcerated on those previous convictions, the Defendant had taken courses on substance abuse and participated in classes on plumbing/electrical work and HVAC. He received certificates certifying his participation.

The Defendant said that, when he was arrested, he admitted his involvement in these offenses. He said he told the officer that he was using cocaine and wanted to get some help for that addiction. The Defendant expressed his desire to go into the DRC program because it involved daily reporting and sober living.

The Defendant agreed that he had been given chances in the past but believed that this time was different because he wanted to be successful more than in the past. The Defendant said that his convictions were “drug-induced,” but he was now sober and committed to living sober.

The Defendant explained that he took the gun to sell. He highlighted that none of his past offenses involved a firearm.

During cross-examination, the Defendant agreed that his criminal history was extensive. His first conviction was from 1996 when he was twenty-four years old and had started using crack cocaine. He was convicted of forgery and grand theft auto. He had also been convicted of robbery, for which he served five years, 2004 to 2009. Those convictions were in Florida. The Defendant said he would stay sober while incarcerated and then turned back to drugs when released.

The Defendant said he was released in 2009 from incarceration in Florida and returned to Nashville in 2010. He had some misdemeanors in 2012, including a DUI, and then in 2014 he moved back in with his father and “the drugs . . . came.” Over the course of the next several years, the Defendant was convicted of multiple felony thefts and received probation. He was using drugs at the time of his offenses. He violated his probation multiple times because he did not pass a drug screen. The Defendant also was convicted of multiple misdemeanor theft convictions.

The offenses in the cases to which he had pleaded guilty occurred from June 2022 through November 2022. He began using drugs again during that time period. The Defendant also said that, at that time, he was being extorted by someone who had hacked his phone. They told him that they would post on social media private, sexually explicit videos from his phone unless he paid them a sum of money in a short period of time. He said he panicked and felt he needed money as soon as possible. His drug addiction and desperation for money led to the charges in these cases.

The Defendant explained that, when he took the money and gun from the register, he did not consider that he was a convicted felon.

During redirect examination, the Defendant said he was being extorted and needed \$10,000 in four days or the videos and images would be posted to social media.

The State argued that the Defendant was a Range II offender with regard to Count 1 of case 2023-A-348—felon in possession of a firearm, making his sentencing range twelve years to twenty years, to be served at eighty-five percent. With regard to the remaining convictions, the State argued the Defendant was subject to serving his sentence at sixty percent. The State asked that he be required to serve his sentence in custody.

The Defendant argued that multiple mitigating factors applied and said that he had a plan for his release to stay sober. The Defendant acknowledged that he had other pending charges of a similar nature but said that he felt equipped with his treatment plan to have success when released.

Thereafter, the trial court found that the Defendant had pleaded guilty in four separate indictments to twenty different offenses, one B felony, seven D felonies, five E felonies, six A misdemeanors, and one B misdemeanor. The Defendant's criminal history consisted of fifteen prior felony convictions and at least fifteen prior misdemeanor convictions. Pursuant to Tennessee Code Annotated section 40-35-108, a career offender is someone who has received at least six prior felony convictions of any classification, so the Defendant was a career offender on his D and E felonies. The statutory sentence for a career offender convicted of a Class D felony was twelve years, at sixty percent. The statutory sentence for a career offender convicted of a Class E felony was six years at sixty percent.

The Defendant did not qualify as a career offender for the Class B felony, so, for that offense, the trial court found that he was a Range II, multiple offender. The court noted that a multiple offender is one who has received a minimum of two, but not more than four, prior felony convictions within the conviction class, a higher class or within the next two lower felony classes. It stated that the Defendant had two prior convictions that were within the two lower felony classes: (1) a D felony conviction from Wilson County on September 28, 2015, and (2) a C felony robbery in Bay County, Florida on October 5, 2004. The court found that those two prior felonies qualified him as a Range II offender. His sentencing range was therefore twelve to twenty years, to be served at eighty-five percent.

The trial court denied the Defendant's request for probation. It found that two enhancement factors applied: that he had a previous history of criminal convictions in addition to those necessary to establish his range and that, at the time the felony was committed, he was released on probation. The trial court placed great weight on these two enhancement factors.

The trial court sentenced the Defendant to fifteen years for his B felony, eleven

months and twenty-nine days of the six A misdemeanors, and six months on the B misdemeanor. In accordance with the plea agreement, the court ordered that all the sentences run concurrently, for a total effective sentence of fifteen years, to be served at eighty-five percent.

It is from this judgments that the Defendant now appeals.

## II. Analysis

On appeal, the Defendant contends that the trial court erred when it used his 2015 Class D theft conviction to qualify him as a Range II offender for his Class B felony conviction. He argues that, at the time of the 2022 offenses and at the time of sentencing, theft offenses had been reclassified such that his 2015 conviction would now be considered a Class E felony. Therefore, that conviction would not be sufficient to support a Range II offender classification as it was more than two classifications below the Class B felony conviction. The State counters that the reclassification of the offense at some date subsequent to the Defendant's 2015 conviction did not affect the Defendant's range classification.

On appeal, a defendant bears the burden of establishing that his sentence is improper. T.C.A. § 40-35-401, Sentencing Comm'n Cmts; *State v. Ashby*, 823 S.W.2d 166, 169 (Tenn. 1991). Appellate review of sentences is under the abuse of discretion standard with a presumption of reasonableness. *State v. Bise*, 380 S.W.3d 682, 708 (2012); *see also State v. Caudle*, 388 S.W.3d 273, 278-79 (Tenn. 2012). A finding of abuse of discretion “reflects that the trial court’s logic and reasoning was improper when viewed in light of the factual circumstances and relevant legal principles involved in a particular case.” *State v. Shaffer*, 45 S.W.3d 553, 555 (Tenn. 2001) (quoting *State v. Moore*, 6 S.W.3d 235, 242 (Tenn. 1999)).

The principal issue here is whether the trial court erred in finding that the Defendant was a Range II offender for sentencing on his weapon charge. This court has recognized that “[t]he standard of review applicable to the length of sentences adopted in *State v. Bise*, 380 S.W.3d 682, 707 (Tenn. 2012), has now been applied to the trial court’s determination of an offender’s range classification.” *State v. Garrens*, No. W2024-00258-CCA-R3-CD, 2025 WL 1307696, at \*6 (Tenn. Crim. App. May 6, 2025) (citing *State v. Christian*, No. M2018-00320-CCA-R3-CD, 2019 WL 3948933, at \*5 (Tenn. Crim. App. Aug. 21, 2019) (citing cases), *no perm. app. filed*, *no perm. app. filed*). Consequently, “[i]f the trial court’s determination that Defendant was a Range II multiple offender is supported by the record and reflects that the trial court properly applied the purposes and principles of sentencing, the trial court’s decision is reviewed for an abuse of discretion, with a presumption of reasonableness.” *Christian*, 2019 WL 3948933, at \*5.

In Tennessee, a defendant’s sentencing range is determined by considering two

variables: the offense class and the defendant's offender classification. *State v. Menke*, 590 S.W.3d 455, 464 (Tenn. 2019). The offender classification has five separate "ranges" of increasing punishment, determined by the defendant's history of prior felony criminal convictions. *See Bise*, 380 S.W.3d at 691; *see* T.C.A. §§ 40-35-105 to -109 (2019). For example, a defendant may be classified as a Range II, multiple offender when he or she has a "minimum of two (2) but not more than four (4) prior felony convictions within the conviction class, a higher class, or within the next two (2) lower felony classes[.]" *See* T.C.A. § 40-35-106(a)(1).

In this case, the trial court determined that the Defendant qualified as a Range II offender for the sentencing on his weapon charge because he had two prior qualifying convictions: a D felony theft conviction from Wilson County on September 28, 2015, and a C felony robbery in Bay County, Florida on October 5, 2004. Pursuant to the statute in effect in 2015, the Defendant's conviction for theft of property valued between \$1,000 and \$10,000 was classified as a class D felony.

Tennessee Code Annotated section 39-14-103 is "the primary generic theft statute," and it provides that: "A person commits theft of property if, with intent to deprive the owner of property, the person knowingly obtains or exercises control over the property without the owner's effective consent." T.C.A. § 39-14-103(a). Under section 39-14-105, the theft grading statute, the Code outlines the range of "the value of the property or services obtained" for each offense class. T.C.A. § 39-14-105(a).

Prior to January 1, 2017, the theft grading statute provided, in relevant part:

(a) Theft of property or services is:

- (1) A Class A misdemeanor if the value of the property or services obtained is five hundred dollars (\$500) or less;
- (2) A Class E felony if the value of the property or services obtained is more than five hundred dollars (\$500) but less than one thousand dollars (\$1,000);
- (3) A Class D felony if the value of the property or services obtained is one thousand dollars (\$1,000) or more but less than ten thousand dollars (\$10,000)[.]

T.C.A. § 39-14-105(a) (2014).

In 2016, the Legislature enacted the Public Safety Act of 2016, and it amended, among other things, Section 39-14-105(a). Specifically, Section 5 of the Public Safety Act of 2016 modified the grading of theft offenses as follows:

SECTION 5. Tennessee Code Annotated, Section 39-14-105(a), is amended by deleting the subsection in its entirety and substituting instead the

following language:

(a) Theft of property or services is:

(1) A Class A misdemeanor if the value of the property or services obtained is one thousand dollars (\$1,000) or less;

(2) A Class E felony if the value of the property or services obtained is more than one thousand dollars (\$1,000) but less than two thousand five hundred dollars (\$2,500);

(3) A Class D felony if the value of the property or services obtained is two thousand five hundred dollars (\$2,500) or more but less than ten thousand dollars (\$10,000)[.]

*Menke*, 590 S.W.3d at 465 (citing 2016 Tenn. Pub. Acts, ch. 906, sec. 5.7).

Accordingly, and as previously stated, at the time the Defendant committed the offense used to establish his sentencing range for the weapon charge in this case, theft of property valued over \$1,000 but less than \$10,000 constituted a Class D felony. T.C.A. § 39-14-105(a)(3) (2014). The Public Safety Act of 2016 divided the theft categories, and it created a category for theft in the amount of \$1,000 to \$2,500 as a Class E felony and then a category for theft in the amount more than \$2,500 to \$10,000 remained a Class D felony. Therefore, under the theft grading statute in effect at the time of his sentencing in this case, theft of property valued over \$1,000 but less than \$2,500 was a Class E felony. T.C.A. § 39-14-105 (2022). If the trial court considered his prior conviction as a Class E felony, it would not be a proper basis upon which to find he qualified as a Range II offender for the weapon conviction because he would not have two prior felony convictions within the conviction class, a higher class, or within the next two lower felony classes. *See* T.C.A. § 40-35-106(a)(1).

There is no evidence in the record from the Defendant's 2015 conviction that establishes the actual value of the property taken, other than the conviction showing that the property was valued between \$1,000 and \$10,000, and a Class D felony. The Defendant concedes that his conviction could have been for theft in any amount within that range but contends that the State should have had to offer proof that the theft was in an amount more than \$2,500 in order for the trial court to use the prior conviction to support a Range II offender finding. We disagree.

The Defendant pleaded guilty in 2015 to a Class D felony, admitting that he committed theft of property valued between \$1,000 and \$10,000 at the time of the offense. For purposes of determining his range for his Class B felony weapon charge, the trial court properly relied on this prior felony conviction, along with his other qualifying felony conviction, to establish his range as a Range II offender. As the State points out, this court "has previously held that 'subsequent reclassification of the offense' from a felony to a misdemeanor does not provide similarly situated defendants with relief." *See State v. Stone*, No. 01C01-9310-CC-00350, 1994 WL 672564, at \*5 (Tenn. Crim. App. Dec. 1,

1994), *no perm. app. filed*.

In *Stone*, the defendant complained that the trial court erroneously found the defendant to be a Range II offender. *Id.* The defendant argued that one of the pre-1989 qualifying convictions for Range II treatment was a joy riding offense, a felony at the time of his conviction but, under the 1989 act, became a Class A misdemeanor. *Id.* (citing T.C.A. § 39-14-106). We then engaged in the following analysis:

In *State v. Wright*, 836 S.W.2d 130 (Tenn. Crim. App. 1992), this court found that a petit larceny conviction prior to November 1, 1989, qualified as a felony for purposes of sentencing the defendant as a career offender even though petit larceny, under the 1989 act, is now a misdemeanor. This court based its decision on the interpretation of Tenn. Code Ann. § 40-35-108(b)(2) which has language identical to the Range II sentencing provision which provides, in pertinent part, as follows:

(b) In determining the number of prior convictions a defendant has received:

- (1) “Prior conviction” means a conviction for an offense occurring prior to the commission of the offense for which the defendant is being sentenced;
- (2) All prior felony convictions, including those occurring prior to November 1, 1989, are included[.]

Tenn. Code Ann. § 40-35-106(b)(1) and (2).

In *Wright*, this court observed that the legislature had to be aware that many of the offenses which qualified as felonies under prior law, such as petit larceny, would be misdemeanors under the 1989 Act and held that the career offender classification was appropriate by the clear language of the statute. 836 S.W.2d at 136. That view appears to be buttressed by Tenn. Code Ann. § 40-35-119 which provides that felonies committed between July 1, 1982, and November 1, 1989, not otherwise classified by the 1989 act, qualify as Class E felonies. We conclude, therefore, that both precedent and statute favor the position of the state. That is, a subsequent reclassification of the offense of joy riding from a felony to a misdemeanor does not provide the defendant with any relief.

*Stone*, 1994 WL 672564, at \*6.

We find this analysis is still sound and is applicable to this case. That is, a subsequent reclassification of the theft offense from a Class D felony to a Class E felony does not provide the Defendant herein with any relief.

### **III. Conclusion**

After a thorough review of the record and relevant authorities, we affirm the trial court's judgments.

*S/ ROBERT W. WEDEMEYER*

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ROBERT W. WEDEMEYER, PRESIDING JUDGE