

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON
July 9, 2026 Session

FILED

09/16/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. KYLE DWIGHT SHADDON

Appeal from the Circuit Court for Henry County
No. 17010 Bruce I. Griffey, Judge

No. W2025-00979-CCA-R3-CD

The Defendant, Kyle Dwight Shaddon, pleaded guilty to four counts of sexual exploitation of a minor for possessing over 379 images of child sexual abuse material (“CSAM”). After a sentencing hearing, the trial court sentenced the Defendant to partially consecutive sentencing for a total effective sentence of twenty-four years. On appeal, the Defendant contends that his guilty plea is not valid because it was not written and signed, as required by Tennessee Rule of Criminal Procedure 11(e). He further contends that the trial court erred when it ordered partial consecutive sentencing. After review, we affirm the trial court’s judgments.

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

ROBERT W. WEDEMEYER, P.J., delivered the opinion of the court, in which TIMOTHY L. EASTER and MATTHEW J. WILSON, JJ., joined.

Mitchell A. Raines, Assistant Public Defender – Appellate Division, Franklin, Tennessee, for the appellant, Kyle Dwight Shaddon.

Jonathan Skrmetti, Attorney General and Reporter; Benjamin L. Barker, Assistant Attorney General; and J. Neil Thompson, District Attorney General; Courtney Morgan Crocker and Anthony L. Clark, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

I. Facts

This case arises from images and videos that contained CSAM found on the Defendant’s computer by law enforcement officers. The Henry County grand jury indicted the Defendant for four counts of sexual exploitation of a minor, Count 1 for seventy-nine images, a Class C felony, and Counts 2-4 for 100 images, Class B felonies.

The Defendant pleaded guilty to these four offenses on March 17, 2025. At the time of his guilty plea, there was no agreed or negotiated sentence, and the sentencing decision was left to the trial court. The parties referred to this as an “open plea.”

During the guilty plea hearing, the trial court asked the Defendant if he wanted to enter a guilty plea, and he responded that he did. The Defendant was sworn, and the trial court informed him of the charges against him. The Defendant again expressed his desire to enter a plea of guilty. He said that he was not under the influence of any substance and that he was entering his plea freely, knowingly, and voluntarily. He further stated that he had not been pressured to enter his plea and that he was satisfied with his attorney’s representation.

The trial court informed the Defendant that the minimum sentence for his Class B felony convictions was eight years and the maximum was thirty years. The sentence would be served at one hundred percent. The court reminded the Defendant that there was no agreement as to what his sentence was going to be and said that the court would determine the sentence after looking at enhancement factors, getting the Presentence Investigation Report, and hearing evidence. The trial court asked the Defendant if he understood that he “could get up to a maximum of thirty years at a hundred percent,” and the Defendant said he understood.

The trial court ensured that the Defendant understood what rights he had if he were to go to trial and said that, if the Defendant’s guilty plea was accepted, there would not be a trial. The trial court also ensured that the Defendant understood that the convictions in this case could be used to increase or enhance a punishment if he were charged in a later offense. The court ensured the Defendant understood that, by pleading guilty to these felonies, the Defendant would lose his right to vote, sit on a jury, hold a public office, and his right to possess and carry a firearm. It also informed the Defendant that he would most likely be placed on the Sex Offender Registry for life and be subject to supervision for life. The Defendant said he understood.

The Defendant stipulated to the statement of facts that were the basis of his plea, said he understood what had been stated, and asked to enter a plea of guilty. The trial court accepted his plea and said that there would be a subsequently held sentencing hearing.

At the sentencing hearing, the prosecutor informed the trial court that there were actually 412 items of CSAM found, but the Defendant was only charged with 379. The State submitted a Presentence Investigation Report and a Psychosexual Risk Evaluation Report. The Psychosexual Risk Evaluation stated that testing indicated that he had a “possible deviant sexual interest” in juvenile females but further testing was necessary. It

further found that the Defendant demonstrated a number of static and dynamic risk factors associated with the risk to re-offend. The Defendant admitted that his search terms for pornography included “barely legal,” but he denied being attracted to minors. The Defendant said he masturbated once per day looking at pornographic material but maintained that it was to adult pornographic material. The Defendant indicated that he felt he had had a “pornography problem for at least eight or so years.” The report indicated that, while the Defendant denied attraction to juvenile females, his viewing time of pictures of them during testing was only “slightly less” than when he viewed adults.

His extended time viewing pictures of Juvenile Females was not consistent with his rating of their sexual attractiveness. That means that [the Defendant] rated pictures of Juvenile Females lower on the sexual attractiveness scale but viewed the pictures for an extended amount of time. This increased attraction to the Juvenile Female pictures is consistent with his behaviors in the index sexual offense.

His overall re-offend risk was “Low-Moderate.” The Defendant indicated that the fact that he was trading the pictures “contributed to the ‘market.’”

The parties agreed that the Defendant was a Range I offender. The trial court noted that the State had filed a notice of sentencing enhancement factors: that the offense involved more than one victim; and that the offense involved a victim and was committed to gratify the Defendant’s desire for pleasure or excitement. T.C.A. § 40-35-114(3), (7). The State asserted that the sentences were subject to consecutive sentencing and that consecutive sentencing was in the interest of justice.

The State then called Tennessee Bureau of Investigation Agent Sarah Turner, who said that she received a tip from Internet Crimes Against Children (“ICAC”) task force about CSAM. In response to that tip, she went to the ICAC database, saw the cyber tip, downloaded the file, and went through the material. The tip provided an email address, which included “ghost.buzzer”, indicated that the email address had downloaded images on August 9, 2023, and the IP address showed that Charter was the carrier. She sent a subpoena to Charter, and received the Defendant’s name, phone number, and address. She put the phone number in the database and found an additional cyber tip associated with the phone number.

Agent Turner executed a search warrant and obtained the Defendant’s cell phone. She interviewed the Defendant, who initially denied that he ever looked at CSAM or had it in his possession. Ultimately, however, he admitted that the “ghost.buzzer” email address belonged to him. The Defendant said that his problem with looking at CSAM started while he was working on a boat in 2017. He ultimately explained that he was

struggling with something that had occurred to him when he was a child. He said he had a problem and did not know how to fix it. He explained that he looked at the material on an app, the name of which he provided to the agent. He would often find this material in a specific group, the name of which he also gave to the agent.

Agent Turner described the first set of seventy-nine images that she found from the August 9, 2023 upload from the cybertip. She said that the age range of the victims was between six or eight months old to about twelve years old. The agent described the extremely disturbing and horrific nature of the videos.

The agent discussed the second cybertip that indicated that on August 10, 2023, a yahoo email address—Shaddon.Kyle—was associated with more than three hundred pornographic files containing CSAM. The agent described some of the other three hundred images and videos. Those were of similar nature and included images and videos, some depicting young children in bondage and subjected to bestiality. Agent Turner said that the files included images and videos that included both young boys and young girls, and that there were some images of adult males sexually assaulting very young girls and others with adult women sexually assaulting infant children. There were also videos that included multiple children. The agent stated that these files were not “hidden” files and that the name of the videos was open and obvious; their content clear.

During cross-examination, Agent Turner testified that the Defendant was cooperative and that there was no evidence that he took any of the images or videos. Upon questioning by the court, the agent explained that the Defendant obtained the pornography from a location on the internet, and he then transferred that material to his own personal Dropbox that he created from his computer at the IP address at his house in Paris, Tennessee.

The Defendant conceded that enhancement factor (2) applied, that this offense involved more than one victim. *See* T.C.A. § 40-35-114.

The trial court found that enhancement factor number (3) applied. It stated:

[T]he entire record in this case indicates that the purposes for which [the Defendant] possessed this material was to gratify his desire for pleasure and excitement, particularly when it noted that . . . from his statements to the interviewing agents and to the statement of the examiner. He started off by these places to meet couples for . . . sexual hookups And according to [the Defendant], that’s how he came into possession of these . . . child sexual . . . materials and he actually took the link for those images and moved those

to his own personal Dropbox and stored them in his Dropbox for his . . . later use.

The court further noted that this activity had taken place from as long ago as October 24, 2018, through 2023. The trial court found the Defendant's credibility "questionable" in light of his statements that he did not intentionally come into possession of the pornographic material. The trial court found that there were no applicable mitigating factors.

The Defendant offered the testimony of relatives. They testified collectively that he was responsible at work and showed up on time. The Defendant was a good provider, owned a home, and had two children, both of whom lived with him fifty percent of the time before his arrest. The Defendant treated his children well and there had been no other sexual misconduct allegations against him. The Defendant's mother detailed that he suffered sexual abuse from the ages of six to nine years old at the hands of his stepbrother. They all also agreed that he needed mental help.

The trial court found that this case did not call for mandatory consecutive sentencing but addressed whether any of the discretionary factors supporting consecutive sentences applied. The State asked for consecutive sentencing based upon Tennessee Code Annotated section 40-35-115(b)(10), which states that the defendant is convicted of two or more offenses involving more than one victim, irrespective of whether the multiple offenses were part of a single criminal episode, and the court finds that separate consecutive sentences for each offense is in the interest of justice. The State indicated that it was not asking for all four sentences to run consecutively but stated that some of the counts within the indictment could be served consecutively due to there being two or more offenses that involved more than one victim. Defense counsel indicated that this factor was discretionary, meaning the trial court could still order concurrent sentences. Defense counsel stated, "we're not . . . going to argue that that's potentially applicable, just that it's . . . at the discretion of the Court"

The trial court noted that the sentence ranges were three to six years for Count 1 and eight to twelve years for Counts 2, 3, and 4.

The Defendant provided an allocution. In it, he said that he understood the wrong that was within "those Dropbox files all those years ago." He added that they were obtained at the same date before 2017. He said that, before he had his own children, he worked on a riverboat and was gone for month at a time. It was during this time that he started trading adult pornographic photos with men and women using an app that he named. He said that "someone new" joined the group and posted links from the Dropbox. He never expected to receive the links containing the CSAM. He said he was "devastated" upon receiving

them but did not know what to do. He said that he believed he would be in trouble either way once he looked at it, so he deleted the application and tried to forget all of it.

He said that, in 2017, when he had his own children, he was reminded of the “torment” he went through as a young child. He went back and tried to delete the Dropbox but found he was locked out of the Dropbox. He tried to forget about the Dropbox and focus on being a good husband and father. The Defendant asked for mercy in sentencing and asked for the minimum sentence.

Upon questioning by the trial court, the Defendant said that he had not uploaded any files since 2017 and that the information showing he uploaded links in 2023 must have been from when he tried to gain access to the accounts to delete them all.

The trial court stated:

[I]t’s the Court’s impression you’ve . . . just kind of painted yourself into a box on this by trying to minimize and . . . deflect your own personal responsibility on this. . . . [T]he Court has nothing in front of it to indicate anything other than you uploaded those to the file in 2023. . . . [Y]ou could have gotten an expert appointed to examine those . . . Dropbox files . . . and none of that was done.

The State noted that the Defendant did not express remorse in his psychosexual report because he indicated that the victims were only victimized by the first person that took the photo or the video. The State noted that the Defendant stated, “Trading pics was just contributing to the market.” The State recounted that the videos were “horrific” and involved bestiality, bondage, multiple children in a single sexually explicit video, and other material similar in nature. It asked the trial court to order at least partial consecutive sentencing based upon the applicable factors and due to the volume and nature of the material.

Based upon the evidence, the trial court found that two enhancement factors applied: enhancement factor (3) that the offense involved more than one victim; and (7) that the offense involved a victim and was committed to gratify the Defendant’s desire for pleasure or excitement. *See* T.C.A. § 40-35-114 (3), (7). The trial court found that the Defendant had not been credible or truthful concerning the circumstances of the offense. The court opined that the Defendant lied and minimized his actual conduct because there was evidence before the court, and his guilty plea included, that he uploaded the images in 2023.

The trial court sentenced the Defendant to six years for Count 1, the maximum within the applicable sentencing range. It sentenced him to twelve years for Count 2, Count

3, and Count 4. The trial court stated that it agreed “with the State’s assessment” regarding the discretionary sentencing factor enumerated in Tennessee Code Annotated section 40-35-115(10), and it ordered that Counts 1 and 2 should run concurrently with each other and that Counts 3 and 4 should run concurrently with each other but those two sentences should run consecutively to each other, for a total effective sentence of twenty-four years. The trial court told the Defendant that the court considered that, while the Defendant was incarcerated, he would not be able to act on his motivation and potentially harm anyone else.

It is from these judgments that the Defendant now appeals.

II. Analysis

On appeal, the Defendant contends that the trial court erred when it failed to require that his guilty plea be reduced to writing and signed by him, in violation of Tennessee Rule of Criminal Procedure 11. He further contends that the trial court erred when it ordered partial consecutive sentencing because there were insufficient findings in the record to support the sentence.

A. Guilty Plea Not Reduced to Writing

The Defendant contends that his guilty plea should not stand because it was not reduced to writing and signed by him. This failure, he argues, renders his guilty plea unknowingly and involuntarily entered. He asks this court to vacate his plea and remand the case to the trial court where the State could move forward with the charges. The State counters that the Defendant has waived our review of this issue and that the issue does not warrant plain error review.

1. Tennessee Rule of Criminal Procedure 11(e)

The validity of a guilty plea is a mixed question of law and fact that is reviewed *de novo*. *Taylor v. State*, No. M2025-00674-CCA-R3-PC, 2026 WL 961241, at *5 (Tenn. Crim. App. Apr. 9, 2026) (citing *Lane v. State*, 316 S.W.3d 555, 562 (Tenn. 2010)). To be valid, a guilty plea must be entered knowingly, voluntarily, and intelligently. *Id.* (citing *Lane*, 316 S.W.3d at 562; *State v. Mackey*, 553 S.W.2d 337, 340 (Tenn. 1977); and also citing *North Carolina v. Alford*, 400 U.S. 25, 31 (1970); *Brady v. United States*, 397 U.S. 742, 747 (1970); *Boykin v. Alabama*, 395 U.S. 238, 242-44 (1969)).

Rule 11 of the Tennessee Rules of Criminal Procedure governs pleas by a defendant. It states that a “defendant may plead not guilty, guilty, or nolo contendere.” Tenn. R. Crim. P. 11(a). Before accepting the plea, the trial court must address the defendant personally in open court and inform him of the ramifications and consequences of his plea, consistent

with those listed in Tennessee Rule of Criminal Procedure 11(b)(1). To ensure that the plea is voluntary, the court shall ensure there were no threats or promises made and inquire as to the defendant's willingness to plead guilty. Tenn. R. Crim. P. 11(b)(2). The trial court shall also determine whether there is a factual basis for the plea. Tenn. R. Crim. P. 11(b)(3).

Tennessee Rule of Criminal Procedure 11(c) governs the plea agreement procedure and (d) discusses the admissibility of a plea and plea discussions. Tennessee Rule of Criminal Procedure 11(e) states:

(e) Record of Proceedings and Written Plea. There shall be a verbatim record of the proceedings at which the defendant enters a plea. If there is a plea of guilty or nolo contendere, the record shall include the inquiries and advice to the defendant required under Rule 11(b) and (c). The plea of guilty or nolo contendere shall be reduced to writing and signed by the defendant.

The parties agree that the plea of guilty in this case was not reduced to writing and signed by the Defendant. The Defendant contends that this is reversible error, and the State contends that the issue is waived.

We agree with the State that the Defendant failed to raise this issue before the trial court, who could have then reduced the Defendant's plea to writing and had him sign it. As a result, any issue with regard to the trial court's failure to require that the guilty plea be reduced to writing is subject to waiver. *See* Tenn. R. App. P. 36(a) ("Nothing in this rule shall be construed as requiring relief be granted to a party responsible for an error or who failed to take whatever action was reasonably available to prevent or nullify the harmful effect of an error."). Because of the constitutional implications, waiver notwithstanding, we will address this issue on its merits. We agree that the trial court committed error when it did not reduce the Defendant's plea of guilty to writing and have him sign it. We then turn to address whether this error was harmless.

2. Harmless Error

Neither party cited cases in their brief, nor mentioned during oral argument, that it is well-settled law in Tennessee that any interpretation of Rule 11, or the *Mackey* rule created by the Tennessee Supreme Court discussed below, must be reviewed under the harmless error standard. *See State v. Newsome*, 778 S.W.2d 34, 38 (Tenn. 1989); *see also Lane*, 316 S.W.3d at 565. The Advisory Commission Comments to Rule 11 state, "This rule is substantially the same as the federal rule." Tenn. R. Crim. P. 11, *Adv. Commission Cmts.* The Federal version of Rule 11 specifically provides that, "A variance from the requirements of this rule is harmless error if it does not affect a substantial right." Fed. R.

Crim. P. 11(h). After a thoughtful and detailed analysis squarely on point, the Tennessee Supreme Court in *Newsome* held:

The rule in *Mackey* requires trial judges in accepting pleas of guilty in criminal cases to adhere, substantially to the procedure prescribed. We consider that requirement to relate to Criminal Procedure Rule 11 as well. Since much of both rules is constitutionally based, faithful adherence to their requirements creates a record which permits appellate courts to ascertain that defendants who enter guilty pleas do so advisedly and trial judges to know what they must and must not do in the plea procedure. The reasons for any deviation from the letter of these rules must appear plain in the record in order that, if appropriate, a harmless error application may be made on appellate review.

To recapitulate, the United States Supreme Court has said: “Whether a conviction for crime should stand when a state has failed to accord federal constitutionally guaranteed rights is every bit as much of a federal question as what particular federal constitution provisions themselves mean, what they guarantee, and whether they have been denied. . . . In the absence of appropriate congressional action, it is our responsibility to protect [federal rights] by fashioning the necessary rule.” *Chapman v. California*, 386 U.S. 18, 87 S. Ct. 824, 826–827, 17 L.Ed.2d 705 (1967). Noting that all of the fifty states, as well as the United States, have legislatively created harmless-error statutes or rules, they concluded that there may be some constitutional errors which in the setting of a particular case are so unimportant and insignificant that they may, consistent with the Federal Constitution, be deemed harmless, not requiring the automatic reversal of the conviction.

Tennessee’s harmless error rule is set out in T.R.A.P. 36(b) and Rule 52(a) of the Rules of Criminal Procedure. It has been legislatively approved by adoption of the foregoing rules. This Court is bound by such legislative action unless it be constitutionally unsound. We hold that it is not. A fortiori, any interpretation of Rule 11, or the *Mackey* rule created by this Court must be reviewed under the harmless error standard.

Applying this standard we must determine if the trial court's omission was or was not harmless to this defendant beyond a reasonable doubt.

Newsome, 778 S.W.2d at 38. Subsequent cases from this court have engaged in such analysis. *Lane*, 316 S.W.3d at 565 (“Where there has been substantial compliance, there is not an omission. Where there is a “patent omission[]” from the advice litany, it is error.

The court then reviews the plea for harmless error. (citing *State v. Frazier*, 784 S.W.2d 927, 928 (Tenn. 1990); *Newsome*, 778 S.W.2d at 38)) (some citations omitted); *see also State v. Felts*, No. 01C01-9701-CC-00006, 1998 WL 118072, at *5-6 (Tenn. Crim. App. Mar. 17, 1998) (finding that the trial court violated the then enumerated Tennessee Rule of Criminal Procedure 11(e)(6) and holding that “the next issue this court must address is whether [this error was] . . . harmless error.”).

The *Lane* court held, “The level of harmless error review depends upon whether the omission constitutes a constitutional error or whether the required advice derives from a rule or pronouncement based on the supervisory authority of this Court.” *Lane*, 316 S.W.3d at 565 (citing *Neal*, 810 S.W.2d at 139). If the former, the judgment is void unless the error is harmless beyond a reasonable doubt. *Id.* If the latter, the judgment will be void only if the defendant can show prejudice from the omission. *Id.*

Considering whether a violation of Rule 11(e) is harmless also comports with the long-standing law of our State that an accused in a criminal prosecution is not entitled to appellate relief for an error appearing on the face of the record “unless, considering the whole record, error involving a substantial right more probably than not affected the judgment or would result in prejudice to the judicial process.” Tenn. R. App. P. 36(b). Further, Rule 52(a), Tennessee Rules of Criminal Procedure, provides that “[n]o judgment of conviction shall be reversed on appeal except for errors which affirmatively appear to have affected the result of the trial on the merits.”

Rule 11(e), which requires that a defendant’s plea is reduced to writing and signed, is intended to ensure that the defendant’s guilty plea is knowingly and voluntarily entered. It therefore implicates constitutional protections, and we must determine if the record evinces that the trial court’s error was harmless beyond a reasonable doubt. We must therefore review the transcript of the guilty plea hearing to determine whether the record evinces that the Defendant entered his guilty plea knowingly, voluntarily, and intelligently. Thus, “the record of acceptance of a defendant’s plea of guilty must affirmatively demonstrate that his decision was both voluntary and knowledgeable, i.e., that he has been made aware of the significant consequences of such a plea; otherwise, it will not amount to an ‘intentional abandonment of a known right.’” *Ward v. State*, 315 S.W.3d 461, 465-66 (Tenn. 2010) (citing *Mackey*, 553 S.W.2d at 340; *see* Tenn. R. Crim. P. 11(b)(1); *see also State v. Pettus*, 986 S.W.2d 540, 542 (Tenn. 1999)). When determining whether a guilty plea was knowingly, voluntarily, and intelligently entered, the court must consider “whether the plea represents a voluntary and intelligent choice among the alternative courses of action open to the defendant.” *Lane*, 316 S.W.3d at 562. To find that the plea was entered “intelligently” and “knowingly,” the trial court must discuss the matter with the accused to make sure he or she “has a full understanding of what the plea connotes and of its consequences.” *Mackey*, 553 S.W.2d at 340 (citations omitted) (emphasis omitted).

If a guilty plea is not knowingly, voluntarily, and intelligently entered, then the defendant has been denied due process, and the guilty plea is void. *Id.* (citations omitted).

A review of the record shows that the trial judge made a meticulous effort to ensure that the Defendant understood his plea, the rights he was surrendering by entering that plea, and the potential punishment he faced. The trial court complied with the requirements of *Mackey* in all regards. The Defendant, under oath, expressed a desire and intention to enter his plea, acknowledged understanding his rights, and denied being made any promises or being under the influence of any intoxicant. Simply put, there is no evidence before this court to contradict the transcript of the hearing during which the Defendant offered a knowing, voluntary, and intelligently made decision to enter a plea of guilty to the charges that he faced based on the overwhelming evidence presented by the State. Accordingly, we conclude that the trial court's error in failing to reduce the Defendant's plea to writing and have him sign it is harmless beyond a reasonable doubt. We decline the Defendant's request to void his convictions. He is not entitled to relief on this issue.

B. Consecutive Sentencing

The Defendant contends that the trial court erred when it ordered partial consecutive sentencing. He contends that the trial court did not meaningfully explain why consecutive sentences were warranted in this case. The State counters that the trial court did not abuse its discretion when it ordered partial consecutive sentencing. 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," as well as to a trial court's decision to impose consecutive sentencing. *State v. Caudle*, 388 S.W.3d 273, 279 (Tenn. 2012); *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 (holding that “[s]o 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. As relevant here, our statute states:

(b) The court may order sentences to run consecutively if the court finds by a preponderance of the evidence that:

....

(10) The defendant is convicted of two (2) or more offenses involving more than one (1) victim, irrespective of whether the multiple offenses were part of a single criminal episode, and the court finds that a separate consecutive sentence for each offense is in the interest of justice.

These criteria are stated in the alternative; therefore, only one need exist to support the imposition of consecutive sentencing. *State v. Pratt*, No. E2025-01133-CCA-R3-CD, 2026 WL 2389069, at *12 (Tenn. Crim. App. Aug. 17, 2026) (citing T.C.A. § 40-35-115(b); *State v. Brannigan*, No. E2011-00098-CCA-R3-CD, 2012 WL 2131111, at *19 (Tenn. Crim. App. June 13, 2012), *no perm. app. filed*). The imposition of consecutive sentencing, however, is subject to the general sentencing principles that the overall sentence imposed “should be no greater than that deserved for the offense committed” and that it “should be the least severe measure necessary to achieve the purposes for which the sentence is imposed[.]” T.C.A. § 40-35-103(2), (4); *State v. Imfeld*, 70 S.W.3d 698, 708 (Tenn. 2002)).

The Defendant contends that the trial court’s findings are not adequate. We note that defense counsel, during the hearing, agreed that this factor applied but stated that it did not mandate that the sentences be ordered to run consecutively. The trial court stated that it agreed “with the State’s assessment” regarding the discretionary sentencing factor enumerated in Tennessee Code Annotated section 40-35-115(10). About this factor, the State indicated that it was clearly applicable but stated that it was not asking for all four sentences to run consecutively and that some of the counts within this indictment could be served consecutively due to there being two or more offenses that involved more than one

victim. Defense counsel indicated that this factor was still discretionary, meaning the trial court could still order concurrent sentences. Defense counsel stated, “we’re not . . . going to argue that that’s potentially applicable, just that it’s . . . at the discretion of the Court . . .” The trial court indicated it considered that, while the Defendant was incarcerated, he would not be able to act on his motivation and potentially harm anyone else.

We conclude that the trial court did not abuse its discretion when it determined that Tennessee Code Annotated section 40-35-115(10) applied. The parties agreed that this factor applied and there was no argument to the contrary. Further, the facts clearly show that this factor applies. The trial court was within its discretion when it ordered partial consecutive sentences on this basis. Further, the trial court indicated that it believed the length of the sentence was necessary so that, while the Defendant was incarcerated, he would not be able to harm anyone else. We interpret this to mean that the trial court found that this sentence was no greater than the Defendant deserved and the least severe measure necessary to achieve the purposes for which the sentence is imposed, which was to protect children from men who exchange CSAM. *See* T.C.A. § 40-35-103(2), (4). The Defendant is not entitled to relief on this issue.

III. Conclusion

Based on the foregoing reasoning, the trial court’s judgments are affirmed.

S/ ROBERT W. WEDEMEYER
ROBERT W. WEDEMEYER, PRESIDING JUDGE