

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs June 2, 2026

FILED

07/31/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. QUAVERRE ROGERS

Appeal from the Criminal Court for Shelby County
Nos. 24-01397, C2401813 James Jones, Jr., Judge

No. W2025-01038-CCA-R3-CD

The Defendant, Quaverre Rogers, was convicted in the Shelby County Criminal Court of voluntary manslaughter and possession of a prohibited weapon and received an effective fourteen-year sentence. On appeal, he claims that (1) the evidence is insufficient to support his conviction of voluntary manslaughter; (2) the trial court committed plain error by allowing a medical examiner, who did not prepare the victim's autopsy report, to testify about the report and by admitting the report into evidence; and (3) his effective sentence is excessive. Based upon our review, we affirm the judgments of the trial court.

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

JOHN W. CAMPBELL, SR., J., delivered the opinion of the court, in which CAMILLE R. MCMULLEN and JILL BARTEE AYERS, JJ., joined.

Barry W. Kuhn (on appeal) and John Zastrow and Lee Filderman (at trial), Memphis, Tennessee, for the appellant, Quaverre Rogers.

Jonathan Skrmetti, Attorney General and Reporter; Lacy E. Wilber, Senior Assistant Attorney General; Steven J. Mulroy, District Attorney General; and Devon Dennis and Haden Lawyer, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

FACTS

On March 17, 2024, the Defendant shot and killed Damein Hawkins. In April 2024, the Shelby County Grand Jury indicted him for first degree premeditated murder and possessing a prohibited weapon, i.e., a machine gun. The Defendant went to trial in March 2025.

At trial, Charloris Hawkins testified that the victim was her husband and that he was fifty-two years old at the time of his death. She identified a photograph of the victim and said she last saw him alive when he left for work on March 16, 2024.

Stevin Cash testified that he was the victim's friend and that he knew the victim for eight to ten years. On the night of March 16, 2024, Mr. Cash and the victim attended a concert at Minglewood Hall. Another friend, Frank Tuggle, also attended the concert. Afterward, the three of them went to the Jerry Lee Lewis Club on Beale Street "to have a drink, hang out." The Defendant was working at the front door of the club. Mr. Cash did not know the Defendant and had never seen him before that night.

Mr. Cash testified that he was a regular customer at the club and that the staff usually allowed him to skip the line at the entrance. However, the Defendant stopped him and would not allow him inside. Another employee, who knew Mr. Cash, told the Defendant that Mr. Cash, Mr. Tuggle, and the victim could enter the club. As the three of them did so, the Defendant told Mr. Cash, "[D]on't say anything." Mr. Cash stated that he "kind of laughed it off" and that another employee told him, "[D]on't worry about it."

Mr. Cash testified that he went upstairs with the victim and Mr. Tuggle to have drinks at the bar. They stayed twenty to thirty minutes, decided to leave, and went back downstairs. As they were exiting the club, they had to pass the Defendant, who was still working at the front door. Mr. Cash said he told the Defendant, "[T]here's no problem, no issue. We're good." The Defendant replied, "[F***] that come on and get this work." Mr. Cash said the Defendant "kind of walked off" while Mr. Cash, who was holding a drink, was talking to people outside the club's entrance. Suddenly, Mr. Cash's "drink got knocked out of [his] hand and [he] got pushed." As Mr. Cash was standing up, he heard a gunshot, and people began running and yelling that "he shot your friend." Mr. Cash began looking for Mr. Tuggle and the victim and saw the victim lying on the ground.

Mr. Cash testified that he met with police officers on March 20, 2024, and that they showed him a photograph array. Mr. Cash selected the Defendant's photograph and identified him as the person who shot the victim.

On cross-examination, Mr. Cash acknowledged that the shooting occurred after 1:00 a.m. on March 17 and that he had been drinking alcohol. He said that he did not see the person who pushed him but that he knew it was the Defendant. After the Defendant pushed Mr. Cash, Mr. Cash heard a gunshot. He described the scene as "chaos."

Frank Tuggle testified that he knew the victim almost eighteen years and that the victim was like an older brother to him. At the time of the Defendant's trial, Mr. Tuggle had known Mr. Cash about twenty-six years. On the night of March 16, 2024, Mr. Tuggle,

the victim, and Mr. Cash attended a concert at Minglewood Hall. They then went to the Jerry Lee Lewis Club on Beale Street. When they arrived at the club, the Defendant was working at the front door. Mr. Tuggle knew the club's employees, who usually allowed him to "skip the line," but he did not know the Defendant. Mr. Tuggle said that as he and his friends were about to enter the club through the "VIP line," the Defendant told them, "[Y]ou can't come this way." Someone working security for the club told the Defendant, "[O]h, man, that's Frank. He's good." Another employee searched Mr. Tuggle, Mr. Cash, and the victim for weapons, and the three of them went upstairs to the bar.

Mr. Tuggle testified that as they were leaving the club, Mr. Cash "tapped" the Defendant and was "[t]rying to make peace basically." Mr. Tuggle stated that Mr. Cash kept trying to shake the Defendant's hand but that the Defendant refused and "kept being irate" with Mr. Cash. Mr. Tuggle said the Defendant told Mr. Cash, "[B****] [n****a] get the [f***] up out of here before you get dealt with." Mr. Tuggle took the Defendant's statement as a threat to kill, and Mr. Cash stated, "[D]amn, bro. . . [W]hat's wrong with you?" The Defendant told Mr. Cash that they did not have anything to talk about.

Mr. Tuggle testified that he kept telling Mr. Cash, "[L]et's go." Meanwhile, the victim was thirty to forty feet from them. Mr. Tuggle said he began to leave but heard a "commotion" behind him. He turned around and saw that the Defendant had knocked a cup out of Mr. Cash's hand. The Defendant then knocked Mr. Cash to the ground. Mr. Tuggle tried to help Mr. Cash stand, but the Defendant shoved Mr. Tuggle. The victim tried to break up the fight by grabbing the Defendant, and Mr. Tuggle heard a gunshot. Everyone in the crowd began running, which forced Mr. Tuggle back into the club. When Mr. Tuggle walked outside, he saw the victim lying on the ground with a hole in the victim's chest. The victim was conscious for a few seconds.

The State played a video recording of the shooting while Mr. Tuggle explained what was depicted in the video. To help the jury follow Mr. Tuggle's testimony, the victim was circled in yellow in the video, Mr. Tuggle was circled in green, and the Defendant was circled in red. We have reviewed the video, which showed the victim standing outside, a distance away from the club's entrance. A crowd of people, which included Mr. Tuggle and Mr. Cash, was standing in front of the club. The Defendant appeared, knocked a drink out of Mr. Cash's hand, and shoved Mr. Cash. The victim walked toward the Defendant, and the Defendant shoved Mr. Tuggle. The victim grabbed the Defendant from behind, and the Defendant and the victim struggled briefly. The Defendant broke free from the victim, raised his right arm, and shot the victim. The victim fell to the ground. The Defendant walked up to the victim, who was lying on his back; pointed the gun at the victim as if he were going to shoot the victim again; and fled.

On cross-examination, defense counsel asked if Mr. Tuggle had been in previous fights at the club, and he said he had been in one fight prior to March 17, 2024. Mr. Tuggle, Mr. Cash, and the victim were in the club for fifteen to twenty minutes and consumed alcohol. Mr. Tuggle acknowledged that Mr. Cash did not have to speak to the Defendant as they were leaving but that Mr. Cash “had some words with” the Defendant. Mr. Tuggle said that the Defendant did not say anything “derogatory” to him or the victim as they were leaving but that “it was almost like [the Defendant] hated” Mr. Cash. Mr. Tuggle acknowledged that he had physical contact with the Defendant. He explained, “I put my hands [on him] to get him off of me because . . . for whatever reason, he put his hands on me.” Although the Defendant pushed Mr. Tuggle and Mr. Cash, the Defendant did not hit them. Mr. Tuggle did not see the Defendant with a gun and did not see him shoot the victim.

Lieutenant Shayne Tarena of the Memphis Police Department (“MPD”) testified that in the early morning hours of March 17, 2024, he was working on the corner of Beale Street and Rufus Thomas Boulevard, near the Jerry Lee Lewis Club. He stated that “[a] fight broke out that turned into a shooting” and that he saw the Defendant shoot the victim. After the shooting, Lieutenant Tarena chased the Defendant about thirty seconds and apprehended him. The Defendant had a gun in his waistband. Lieutenant Tarena thought the gun was ten-millimeter semiautomatic handgun.

Lieutenant Tarena testified that people were not allowed to carry weapons on Beale Street. After he apprehended the Defendant, he returned to the scene. The victim was alive but unresponsive. Lieutenant Tarena said officers found “a live round, the magazine from the gun and a spent shell casing” beside the victim.

On cross-examination, Lieutenant Tarena testified that he did not hear what was said before the shooting but that he was looking in the direction of the Jerry Lee Lewis Club at the time of the shooting. He later learned the Defendant’s gun jammed after the Defendant shot the victim.

Officer Jordan Burnett of the MPD testified that he was working with Lieutenant Tarena in the early morning hours of March 17, 2024; that he heard “a loud noise”; and that he saw Lieutenant Tarena “take off running.” Officer Jordan ran after Lieutenant Tarena, and they encountered the Defendant in a parking lot behind 301 Beale Street. Officer Jordan said that “[i]t took several verbal commands for [the Defendant] to surrender” but that he eventually put his hands up. The Defendant had a ten-millimeter handgun in his right waistband. No magazine was in the gun, but Officer Burnett later saw the magazine in front of the Jerry Lee Lewis Club. Officer Burnett said that the gun was a Glock 29 GM4 handgun and that the firearm was equipped with “a switch,” which was illegal in Tennessee. He explained that a switch converted a semiautomatic firearm to an

automatic firearm. On cross-examination, Officer Burnett acknowledged that officers took the Defendant into custody “without incident.”

Sergeant Stephen Dewitt of the MPD testified that he investigated the shooting. He identified photographs taken at the scene, showing a gun magazine, a ten-millimeter spent bullet casing, and a ten-millimeter live round on the sidewalk in front of the Jerry Lee Lewis Club.

On cross-examination, Sergeant Dewitt testified that he viewed a video recording of the shooting and that the video showed a large crowd of people outside the club. Sergeant Dewitt interviewed Lieutenant Tarena, who had witnessed the shooting, but did not interview anyone from the crowd.

Sergeant Cecil Fowler of the MPD testified that the victim was transported to a hospital in critical condition. Sergeant Fowler went to the hospital to speak with the victim, if possible, but learned the victim was in surgery, so he went to the police department to interview the Defendant. Sergeant Fowler had the Defendant read and initial a waiver of rights form. Before the Defendant’s interview, Sergeant Fowler was called out of the interview room and was informed that the victim had died during surgery. The Defendant requested a lawyer and did not give a statement.

Shandra Lynch, a special agent forensic scientist with the Tennessee Bureau of Investigation and an expert in firearms identification, testified that she examined the gun recovered from the Defendant. She said the gun was a “Glock Model 29 Gen4 with a device on the back.” The device was commonly referred to as “a switch” but was known by the Bureau of Alcohol, Tobacco, and Firearms as “a machine gun conversion device.” She said that the device was illegal, that it was not installed by the gun’s manufacturer, and that “the back plate or the slide cover” on the gun had to be removed to install the device.

Special Agent Lynch testified that the Defendant’s gun was a ten-millimeter semiautomatic that normally fired one bullet per trigger pull. However, if the switch was engaged to automatic mode, the gun would fire continuously until the shooter either stopped pulling the trigger or the gun ran out of ammunition. The gun could fire in semiautomatic or automatic mode, and both modes were functional on the Defendant’s gun, depending on the toggle position of the switch.

Special Agent Lynch testified that she test-fired ammunition that was in the gun’s magazine and that she compared the test-fired bullet casings to the bullet casing found at the crime scene. She concluded that the casing found near the victim was fired from the Defendant’s gun. She also compared a bullet that was recovered from the victim to a test-fired bullet. However, the results were inconclusive, so she was unable to determine

whether the bullet recovered from the victim was fired from the gun. On cross-examination, Special Agent Lynch acknowledged that she did not know who installed the switch on the Defendant's gun or if the switch was in semiautomatic or automatic mode at the time of the shooting.

Dr. Marco Ross, the Chief Medical Examiner at West Tennessee Forensic Center and an expert in forensic pathology, testified that Dr. Scott Collier performed the victim's autopsy. Dr. Ross said that he reviewed the victim's autopsy report and the victim's file and that he agreed with Dr. Collier's conclusions in the report. The victim sustained a gunshot wound to the upper left of his abdomen. The bullet traveled through his stomach, pancreas, and aorta and was recovered in his spine. The victim's cause of death was a gunshot wound to the abdomen, and his manner of death was homicide. On cross-examination, Dr. Ross testified that the victim was six feet, two inches tall; weighed two hundred thirty-two pounds; and had a blood alcohol content of .109.

Detective Artie Taylor of the Shelby County Sheriff's Department testified that he monitored inmate telephone calls at the Shelby County Jail. He identified two calls made by the Defendant: one on March 17 and one on March 18, 2024. The State played recordings of the calls for the jury, and we reviewed the recordings. During the first call, the Defendant told the woman with whom he was speaking that he should have run to the parking garage because "when I turned left, they were all in the parking lot." The woman asked if the Defendant dropped his "clips" because she heard they were found in the middle of the street. The Defendant responded that he was never in the middle of the street but that "[the victim's] lucky my mag fell out." The woman told the Defendant that someone claimed the Defendant stood over the victim and tried to shoot him in the head but that the Defendant's gun jammed. The Defendant told her that "the mag wasn't in there. That's why it didn't shoot." In the second call on March 18, 2024, the Defendant told the man with whom he was speaking that the "mag" fell out of the gun and that the police found the magazine and live rounds.

On cross-examination, Detective Taylor testified that the Defendant identified himself at the beginning of each call but acknowledged that the Defendant could have handed the telephone to another inmate. At the conclusion of Detective Taylor's testimony, the State rested its case.

The twenty-eight-year-old Defendant testified that on the night of March 16, 2024, he was working at the Jerry Lee Lewis Club and was responsible for checking identifications of people entering the club. To his knowledge, the club did not have a VIP line for regular customers, and regular customers did not receive special treatment. The Defendant said that in the early morning hours of March 17, "three individuals . . . tried to cut the line." The Defendant stopped them and told them that they had to "get in line" so

he could check their identifications. However, a coworker told the Defendant that the men were “okay” and “waved them in.” The Defendant remained at the club entrance.

The Defendant testified that as the men were leaving, Mr. Cash approached him. Mr. Cash did not speak to the Defendant; instead, Mr. Cash told the Defendant’s coworker that the Defendant was “good.” The Defendant told his coworker that he did not want to talk to Mr. Cash. Mr. Cash did not like the Defendant’s response and remained near the entrance, watching the Defendant. The Defendant said Mr. Cash had “animosity toward” him, so he asked Mr. Tuggle to tell Mr. Cash to leave. Mr. Tuggle did not respond to the Defendant’s request, so the Defendant decided to leave the Jerry Lee Lewis Club and work at the club next door, which was also owned by the Defendant’s employer. As the Defendant was walking by Mr. Cash, Mr. Cash intentionally spilled his drink on the Defendant’s pants and shoes. Mr. Cash claimed the Defendant knocked the drink out of Mr. Cash’s hand and stepped toward the Defendant. The Defendant thought Mr. Cash was going to harm him, so he grabbed Mr. Cash’s face and pushed Mr. Cash away. Mr. Tuggle grabbed the Defendant, so the Defendant also pushed Mr. Tuggle. The victim jumped on the Defendant’s back, and Mr. Tuggle started punching the Defendant’s head. The Defendant described the victim as “quite heavy” and “a big man.” The Defendant said he ended up pinned against the wall of the club and thought the three men were going to harm him, so he pulled his firearm out of his pocket. He said he pushed Mr. Tuggle and the victim off him and “just fired.” The Defendant stated that he never spoke to or threatened the victim, that he “reacted” to being assaulted, and that he shot the person who was harming him. He said only one bullet came out of the gun.

The Defendant testified that he knew before the shooting that a switch had been installed on his gun. He also knew the switch was illegal but thought he needed the switch for extra protection on Beale Street. During the melee with the victim, the magazine fell out of the Defendant’s gun. The Defendant fired the gun at the victim and saw the victim fall but did not know the victim had been shot. The Defendant walked up to the victim while the victim was lying on the ground because he wanted to see if the victim was going to try to harm him. The Defendant saw that the victim was wounded but remembered that the victim’s friends were still a threat. He said he “just tried to get to a safe place.”

Defense counsel questioned the Defendant about a jailhouse telephone call made by the Defendant, and the Defendant acknowledged saying something to the effect of “‘I would have unloaded all those [b****es]’” if his magazine had not fallen out of his gun. He said he was referring to the bullets in his magazine. The Defendant said that he was still in shock from the shooting when he made the statement, that he regretted what happened and was “truly sorry” for the victim’s family, and that he thought about the shooting every day.

On cross-examination, the Defendant testified that he knew how to operate the switch and that someone installed the switch for him but “kept the back plate.” The State asked if he said in a jailhouse telephone call that the back plate was “at my house,” and the Defendant said he was not sure. The trial court sent the jury out of the courtroom and allowed the State to play a recording of the call to refresh the Defendant’s recollection. When the jury returned to the courtroom, the Defendant said he told the person with whom he was speaking that the back plate was “at the house.” The State asked, “Which house was that?” The Defendant answered, “I really don’t know where it’s at. I told the person I was on the phone with at the house. That don’t mean it’s at my house.” He denied being angry and embarrassed because another employee allowed Mr. Cash, Mr. Tuggle, and the victim to enter the club and denied starting the fight with Mr. Cash. He said the magazine fell out of his gun before he shot the victim. After the shooting, the Defendant walked over to the victim and pointed the gun at him while he was lying on the ground. The Defendant denied pointing the gun at the victim’s face.

On redirect examination, the Defendant testified that he shot the victim because he was trying to protect himself and that he was “in fear the whole time.” The Defendant said that he “should have tried to avoid the situation” and that he regretted shooting the victim.

At the conclusion of the Defendant’s testimony, the defense rested its case. The trial court instructed the jury on self-defense, but the jury found the Defendant guilty of voluntary manslaughter as a lesser-included offense of first degree premeditated murder. The jury also convicted the Defendant of possession of a prohibited weapon as charged in the indictment.

ANALYSIS

I. Sufficiency of the Evidence

The Defendant claims that the evidence is insufficient to support his conviction of voluntary manslaughter because he did not act in an irrational manner but in a state of fear for his life that was caused by the victim, Mr. Cash, and Mr. Tuggle. The State claims that the evidence is sufficient to support the conviction. We agree with the State.

When the sufficiency of the evidence is challenged on appeal, the relevant question of the reviewing court is “whether, after viewing the evidence in the light most favorable to the prosecution, *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); *see also* Tenn. R. App. P. 13(e) (“Findings of guilt in criminal actions whether by the trial court or jury shall be set aside if the evidence is insufficient to support the findings by the trier of fact of guilt beyond a reasonable doubt.”); *State v. Evans*, 838 S.W.2d 185, 190-91 (Tenn. 1992); *State v. Anderson*, 835 S.W.2d 600, 604 (Tenn. Crim. App. 1992).

Therefore, on appeal, the State is entitled to the strongest legitimate view of the evidence and all reasonable inferences that may be drawn from it. *State v. Williams*, 657 S.W.2d 405, 410 (Tenn. 1983). All questions involving the credibility of witnesses, the weight and value to be given the evidence, and all factual issues are resolved by the trier of fact. *State v. Pruett*, 788 S.W.2d 559, 561 (Tenn. 1990). “A jury conviction removes the presumption of innocence with which a defendant is initially cloaked and replaces it with one of guilt, so that on appeal a convicted defendant has the burden of demonstrating that the evidence is insufficient.” *State v. Tuggle*, 639 S.W.2d 913, 914 (Tenn. 1982).

The guilt of a defendant, including any fact required to be proven, may be predicated upon direct evidence, circumstantial evidence, or a combination of both direct and circumstantial evidence. *State v. Pendergrass*, 13 S.W.3d 389, 392-93 (Tenn. Crim. App. 1999). The standard of review for the sufficiency of the evidence is the same whether the conviction is based on direct or circumstantial evidence or a combination of the two. *State v. Dorantes*, 331 S.W.3d 370, 379 (Tenn. 2011).

The State indicted the Defendant for first degree premeditated murder, which is defined as “[a] premeditated and intentional killing of another[.]” Tenn. Code Ann. § 39-13-202(a)(1). The jury convicted him of voluntary manslaughter, which is defined as “the intentional or knowing killing of another in a state of passion produced by adequate provocation sufficient to lead a reasonable person to act in an irrational manner.” Tenn. Code Ann. § 39-13-211(a).

As instructed to the jury in this case, Tennessee Code Annotated section 39-11-611(b), the self-defense statute, provides that:

(1) . . . a person who is not engaged in conduct that would constitute a felony or Class A misdemeanor and is in a place where the person has a right to be has no duty to retreat before threatening or using force against another person when and to the degree the person reasonably believes the force is immediately necessary to protect against the other’s use or attempted use of unlawful force.

(2) . . . a person who is not engaged in conduct that would constitute a felony or Class A misdemeanor and is in a place where the person has a right to be has no duty to retreat before threatening or using force intended or likely to cause death or serious bodily injury, if:

(A) The person has a reasonable belief that there is an imminent danger of death, serious bodily injury, or grave sexual abuse;

(B) The danger creating the belief of imminent death, serious bodily injury, or grave sexual abuse is real, or honestly believed to be real at the time; and

(C) The belief of danger is founded upon reasonable grounds.

When self-defense is fairly raised by the evidence, the State carries the burden of proof to negate the defense beyond a reasonable doubt. *See* Tenn. Code Ann. § 39-11-201(a)(3) (2014); *State v. Benson*, 600 S.W.3d 896, 903 (Tenn. 2020) (citation omitted). However, whether a defendant acted in self-defense is a question of fact for the jury to determine. *See State v. Goode*, 956 S.W.2d 521, 527 (Tenn. Crim. App. 1997); *State v. Ivy*, 868 S.W.2d 724, 727 (Tenn. Crim. App. 1993).

Initially, we note that during the Defendant's closing argument, defense counsel asserted that if the jury rejected the Defendant's claim of self-defense, then the evidence was sufficient to support voluntary manslaughter. Defense counsel stated,

[V]oluntary manslaughter requires that the killing result from a state of passion, which I submit to you existed in this case after being attacked from behind and slammed into a wall. So, there's a state of passion produced by adequate provocation. That provocation being a complete stranger landing on his back. He didn't know who it was. He didn't know if they were armed. That is provocation.

And this is the important part. Sufficient to lead a reasonable person to act in an irrational manner. *There's no question that [the Defendant's] reaction was irrational.* We don't deny that. But what caused that irrationality? That's what this part of the law intended. And you'll see that same language on page six under the voluntary manslaughter charge.

(Emphasis added.)

Defense counsel's argument was sound. Taken in the light most favorable to the State, the evidence shows that the Defendant was embarrassed when a coworker allowed Mr. Cash, Mr. Tuggle, and the victim to enter the club after the Defendant had told them that they would have to wait in line. As the three men were later leaving the club, Mr. Cash

tried to make amends with the Defendant. However, the Defendant was angry, refused to shake Mr. Cash's hand, and threatened Mr. Cash. The Defendant then started a physical altercation with Mr. Cash and Mr. Tuggle by knocking the drink out of Mr. Cash's hand and by shoving Mr. Cash and Mr. Tuggle to the ground. The unarmed victim grabbed the Defendant from behind, which resulted in the Defendant's pulling his handgun out of his pocket and shooting the victim. We have carefully reviewed the video of the shooting and cannot discern anyone punching the Defendant in the head prior to the shooting as the Defendant claimed. We conclude that a rational jury could have found that the Defendant did not act in self-defense but instead acted in a state of passion produced by adequate provocation that would lead a reasonable person to act in an irrational manner. Accordingly, the evidence is sufficient to support the Defendant's conviction of voluntary manslaughter.

II. Autopsy Report

The Defendant, relying on *Smith v. Arizona*, 602 U.S. 779 (2024), contends that the trial court's allowing Dr. Ross to testify about the victim's autopsy report and admitting the report into evidence when Dr. Ross did not prepare the report violated the Confrontation Clause. He concedes that we can only review the issue for plain error because he did not object to Dr. Ross's testimony or the admission of the autopsy report into evidence at trial and did not include the issue in his motion for new trial. *See* Tenn. R. Evid. 103(a); Tenn. R. App. P. 3(e). The State argues that the Defendant is not entitled to plain error relief because no clear and unequivocal rule of law was breached and because plain error review is not necessary to do substantial justice. We agree with the State.

We may consider an issue to be plain error when all five of the following factors are met:

(a) the record must clearly establish what occurred in the trial court; (b) a clear and unequivocal rule of law must have been breached; (c) a substantial right of the accused must have been adversely affected; (d) the accused did not waive the issue for tactical reasons; and (e) consideration of the error is "necessary to do substantial justice."

State v. Adkisson, 899 S.W.2d 626, 641-42 (Tenn. Crim. App. 1994) (footnotes omitted); *see also State v. Smith*, 24 S.W.3d 274, 283 (Tenn. 2000) (adopting the *Adkisson* test for determining plain error). Additionally, the "'plain error' must be of such a great magnitude that it probably changed the outcome of the trial." *Adkisson*, 899 S.W.2d at 642 (quoting *United States v. Kerley*, 838 F.2d 932, 937 (7th Cir. 1988)).

First, we cannot conclude that a clear and unequivocal rule of law was breached or that a substantial right of the accused was adversely affected. In Tennessee, criminal defendants are entitled to confront witnesses against them under the Sixth Amendment to the United States Constitution and article I, section 9 of the Tennessee Constitution. “Currently, *Crawford v. Washington*, 541 U.S. 36 (2004), and its progeny are the controlling authority for determining whether the admission of hearsay violates a defendant’s rights under the federal confrontation clause, and [our supreme court] has applied *Crawford* to challenges under the Tennessee Constitution, as well.” *State v. Parker*, 350 S.W.3d 883, 898 (Tenn. 2011). Generally, “*Crawford* bars the admission of testimonial hearsay absent a showing of unavailability and a prior opportunity for cross-examination.” *State v. Lewis*, 235 S.W.3d 136, 146 (Tenn. 2007). However, *Crawford* “le[ft] for another day any effort to spell out a comprehensive definition of ‘testimonial.’” 541 U.S. at 68.

In *State v. Hutchison*, our supreme court concluded that “‘an autopsy report prepared in the normal course of business of a medical examiner’s office is not rendered testimonial merely because the . . . medical examiner performing the autopsy is aware that police suspect homicide and that a specific individual might be responsible.’” 482 S.W.3d 893, 914 (Tenn. 2016) (*People v. Leach*, 980 N.E.2d 570, 593 (Ill. 2012)). Under the reasoning in *Hutchison*, autopsy reports generally are not testimonial because their primary purpose is to determine cause and manner cause of death, not to prove the guilt of a particular defendant at trial. *See id.* at 913-14. (Tenn. 2016) (citing *Williams v. Illinois*, 567 U.S. 50, 84 (2012)). Thus, admission of an autopsy report into evidence does not violate the Confrontation Clause. *Id.* at 914. Likewise, the *Hutchison* court concluded that testimony by a substitute expert, who relied on the autopsy report but did not prepare the report, does not violate the Confrontation Clause. *Id.* The *Hutchison* court noted, “Out-of-court statements that are related by the [substitute] expert solely for the purpose of explaining the assumptions on which [the substitute expert’s] opinion rests are not offered for their truth and thus fall outside the scope of the Confrontation Clause.” *Id.* (quoting *Williams*, 567 U.S. at 58).

In *Smith v. Arizona*, the United States Supreme Court partially abrogated *Hutchison* by holding, “If an expert for the prosecution conveys an out-of-court statement in support of his opinion, and the statement supports that opinion only if true, then the statement has been offered for the truth of what it asserts.” 602 U.S. at 795. In other words, the statement is hearsay. The Supreme Court did not address, though, whether such statements are testimonial. *Id.* at 800-01. Therefore, our supreme court’s conclusion in *Hutchison* that the statements are not testimonial remains good law. *See Hodge v. State*, No. W2025-01156-CCA-R28-PC, 2025 WL 2630297, at *3 (Tenn. Crim. App. Sept. 11, 2025) (order), *perm. app. denied* (Tenn. Mar. 30, 2026); *State v. Green*, No. W2024-00370-CCA-R3-CD,

2025 WL 2027873, at *17 (Tenn. Crim. App. July 21, 2025) (Wilson, J., dissenting), *no perm. app. filed*.

Turning to the instant case, Dr. Ross testified that one bullet entered the victim's abdomen and traveled through several organs; that the cause of the victim's death was a gunshot wound; and that the manner of death was homicide. However, the Defendant did not dispute that he shot and killed the victim. Therefore, we conclude that consideration of the error, if any, is not necessary to do substantial justice and that the error was not so significant that it probably changed the outcome of the trial. Moreover, on cross-examination by defense counsel, Dr. Ross testified that the victim was six feet, two inches tall; weighed two hundred thirty-two pounds; and had a blood alcohol content of .109. The Defendant testified that the victim was a large, heavy man. During defense counsel's closing argument, he asserted that the Defendant acted in self-defense because the victim put his "full body . . . weight" on the Defendant and because the Defendant "just knows the weight of this 232-pound man is slamming him into a wall." Thus, we cannot say that the Defendant did not waive the issue for tactical reasons. The Defendant is not entitled to plain error relief.

III. Sentencing

The Defendant claims that his effective fourteen-year sentence is excessive because the trial court should have ordered that he serve an eight-year sentence for voluntary manslaughter and should not have ordered consecutive sentencing. The State argues that the trial court properly sentenced the Defendant. We agree with the State.

The trial court held a sentencing hearing on May 16, 2025. At the hearing, Toya Cheairs testified that the victim was her first cousin and that they had a very close relationship because their mothers were identical twins. She stated that the victim's death was "the hardest" loss she had ever experienced; that his death had affected her family "in a very negative way"; and that he was "the last person in the world that [she] would have associated with any type of crime of violence." She described the victim as a "peacemaker" and said he was not a violent person. Ms. Chearis said that she missed the victim and that she did not think the Defendant was remorseful because he smiled at the victim's family members in court.

Annie Vaughn testified that the victim was her only son, that he used to call her several times each day, and that she cried every night about losing him. She said that he always tried to "make peace," that he did not have a gun on the night of the shooting, and that he was trying to break up the fight when the Defendant shot him. She said the Defendant deserved life in prison.

Mr. Tuggle testified that the victim was “a genuine person” and that they “just hit it off” when they met. He stated that the victim was always helpful and that he did not understand how someone could have taken the life of a person “that special.” Mr. Tuggle said that the victim did not say anything to the Defendant on the night of the shooting and that none of them were “looking for trouble.” He stated that the Defendant should not receive probation and that he hoped the court would “do the right thing.”

Charloris Hawkins, the victim’s wife, read a statement to the trial court in which she said that the victim was ““a devoted dad, grandfather, son, brother, beloved family member and friend.”” The victim was killed just two days after they celebrated their sixteenth wedding anniversary. She stated that the loss of the victim had “left an immeasurable void” in her life and that the Defendant had not shown remorse. She said that the Defendant was “smiling and laughing, as if it was some kind of joke” during the trial and that he gave a “well rehearsed apology” during his testimony. She asked that the trial court “give our family the justice that the jurors felt just a little short in delivering” and that the Defendant receive a fourteen-year sentence.

Quavetta Mitchell, the Defendant’s mother, testified that the Defendant had a “great” life before the shooting. The Defendant was a good student, did not have any behavior problems in school, and was never involved in gangs or violence. At the time of the sentencing hearing, the Defendant had two children, ages five and seven. Ms. Mitchell said that the Defendant was present when his children were born and that she was “shocked” and “heart-broken” when she heard about the shooting. She said that the Defendant had never been in trouble before the shooting, that he took care of her when she was sick, and that he was always employed. She stated that if the Defendant received probation, he could live with her and that she did not think he would get into trouble again.

The Defendant gave an allocution in which said he was sorry to the victim’s family members and asked for their forgiveness. He also said to his own family that he was sorry for the disappointment and shame he had caused.

The State introduced the Defendant’s presentence report into evidence. In the report, the Defendant stated that he graduated from high school in 2016. He described his physical and mental health as “excellent” and said he had never been diagnosed with a mental illness. The Defendant stated that he began using alcohol at the age of nineteen and marijuana at the age of sixteen. He said that he last used marijuana in March 2024 and that he had never participated in a drug treatment program. The report showed that the Defendant worked for Finish Line shoe store from September 2024 to January 2024, Krispy Kreme from August 2024 until November 2024, and for O’Reilly Auto Parts from December 2022 to October 2023. According to the report, the Defendant committed two traffic offenses: speeding in 2018 and failure to yield in 2014. His Strong-R report

classified his overall risk to reoffend as moderate with high needs in Residential and Employment; moderate needs in Family, Attitudes/Behaviors, Education, and Alcohol/Drug Use; and low needs in Mental Health, Aggression, and Friends.

The trial court first considered the factors for probation and determined that probation was not appropriate in this case. The Defendant does not contest that determination. Regarding sentencing enhancement factors, the trial court found the following factors applicable to the Defendant's convictions: (1) "[t]he defendant has a previous history of criminal convictions or criminal behavior, in addition to those necessary to establish the appropriate range;" (3) the offense involved more than one victim; and (10) "[t]he defendant had no hesitation about committing a crime when the risk to human life was high[.]" Tenn Code Ann. § 40-35-114(1), (3), (10). The trial court gave "substantial weight" to enhancement factor (10). Regarding mitigating factors requested by the Defendant, the trial court found that the following factors were applicable but entitled to slight weight: (2) "[t]he defendant acted under strong provocation;" and (3) "[s]ubstantial grounds exist tending to excuse or justify the defendant's criminal conduct, though failing to establish a defense[.]" *Id.* at § 40-35-113(2), (3). The trial court refused to apply mitigating factor (6) "[t]he defendant, because of youth or old age, lacked substantial judgment in committing the offense;" and factor (11) "[t]he defendant, although guilty of the crime, committed the offense under such unusual circumstances that it is unlikely that a sustained intent to violate the law motivated the criminal conduct[.]" *See id.* at § 40-35-113(6), (11). The trial court also rejected the Defendant's claim that he was entitled to mitigation because he did not have an extensive criminal history; because measures less restrictive than confinement, such as probation, had never been applied unsuccessfully to him; and because he took responsibility for his actions. *See id.* at §§ 40-35-103(1)(C), -113(13).

The trial court found that the Defendant was a Range I, standard offender and sentenced him to twelve years for voluntary manslaughter, a Class B felony, and two years for possession of a prohibited weapon, a Class E felony. Both sentences were the maximum punishment in the range for the offense. *See id.* at § 40-35-112(a)(2), (5). Regarding consecutive sentencing, the trial court found that the Defendant was a dangerous offender pursuant to Tennessee Code Annotated section 30-35-115(b)(4) and ordered that he serve the sentences consecutively for a total effective sentence of fourteen years in confinement.

This court reviews the length, range, and manner of service of a sentence 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); *State v. Pollard*, 432 S.W.3d 851, 860 (Tenn. 2013) (applying the *Bise* standard of review to consecutive sentencing). In determining a defendant's sentence, the trial court considers the following

factors: (1) the evidence, if any, received at the trial and the sentencing hearing; (2) the presentence report; (3) the principles of sentencing and arguments as to sentencing alternatives; (4) the nature and characteristics of the criminal conduct involved; (5) evidence and information offered by the parties on enhancement and mitigating factors; (6) any statistical information provided by the administrative office of the courts as to sentencing practices for similar offenses in Tennessee; (7) any statement by the Defendant in his own behalf; and (8) the result of the validated risk and needs assessment conducted by the department and contained in the presentence report. Tenn. Code Ann. § 40-35-210(b); *see also Bise*, 380 S.W.3d at 697-98. The burden is on the Defendant to demonstrate the impropriety of his sentences. *See* Tenn. Code Ann. § 40-35-401, Sent’g Comm’n Cmts.

In determining a specific sentence within a range of punishment, the trial court should consider, but is not bound by, the following advisory guidelines:

(1) The minimum sentence within the range of punishment is the sentence that should be imposed, because the general assembly set the minimum length of sentence for each felony class to reflect the relative seriousness of each criminal offense in the felony classifications; and

(2) The sentence length within the range should be adjusted, as appropriate, by the presence or absence of mitigating and enhancement factors set out in §§ 40-35-113 and 40-35-114.

Tenn. Code Ann. § 40-35-210(c).

Although the trial court should consider enhancement and mitigating factors, the statutory factors are advisory only. *See* Tenn. Code Ann. § 40-35-114; *see also Bise*, 380 S.W.3d at 701; *State v. Carter*, 254 S.W.3d 335, 343 (Tenn. 2008). Our supreme court has stated that “a trial court's weighing of various mitigating and enhancement factors [is] left to the trial court's sound discretion.” *Carter*, 254 S.W.3d at 345. In other words, “the trial court is free to select any sentence within the applicable range so long as the length of the sentence is ‘consistent with the purposes and principles of [the Sentencing Act].’” *Id.* at 343 (quoting Tenn. Code Ann. § 40-35-210(d)). Appellate courts are “bound by a trial court’s decision as to the length of the sentence imposed so long as it is imposed in a manner consistent with the purposes and principles set out in sections -102 and -103 of the Sentencing Act.” *Id.* at 346.

The Defendant first claims that his twelve-year sentence for voluntary manslaughter is excessive because no enhancement factors were applicable. Regarding enhancement factor (1) related to his history of criminal convictions or behavior, the Defendant asserts

the factor was not applicable because his criminal record consisted of only two traffic offenses. We disagree with the Defendant. The trial court stated that it found this factor applicable because the Defendant modified the gun in an illegal manner and knowingly went armed with the weapon, which the trial court considered criminal behavior. Regarding enhancement factor (3), the offense involved more than one victim, the Defendant claims the factor was not applicable because there was one named victim, Damein Hawkins. The State concedes that the trial court erred, and we agree. There can be only one victim for any one offense of voluntary manslaughter. *See* Tenn. Code Ann. § 39-13-211(a); *State v. Craft*, No. M2022-01720-CCA-R3-CD, 2024 WL 890191, at *8 (Tenn. Crim. App. Mar. 1, 2024), *no perm app. filed*.

The Defendant also claims that the trial court should not have applied enhancement factor (10), the defendant had no hesitation about committing a crime when the risk to human life was high. In support of his argument, he relies on *State v. Johnson*, No. M2010-01721-CCA-R3-CD, 2012 WL 2356553, at *5 (Tenn. Crim. App. June 20, 2012), *no perm. app. filed*, in which this court held that the trial court could not apply enhancement factor (10) to the defendant's convictions of involuntary manslaughter because, under the facts of that case, the factor was inherent in the offense. However, *Johnson* is readily distinguishable from the present case because the evidence in *Johnson* "established that the two victims . . . were executed by single shots to the head while they were lying prone and helpless; their lives were the only ones placed at risk by the defendant's conduct." *Id.* As this court explained,

"To justify the use of [enhancement factor 10], the state must prove the defendant demonstrated a culpability distinct from and appreciably greater than that incident to the offense for which he was convicted," such as in the case of a homicide where the defendant's conduct posed a threat to a large number of people before a particular victim was killed.

Id. (quoting *State v. Belser*, 945 S.W.2d 776, 792 (Tenn. Crim. App. 1996), *overruled on other grounds by State v. Williams*, 977 S.W.2d 101, 105 (Tenn. 1998)) (citation and internal quotations omitted). The Defendant in this case fired the gun in the presence of a large crowd of people. Therefore, the trial court properly applied enhancement factor (10) to his voluntary manslaughter conviction.

Finally, the Defendant claims that the trial court erred by refusing to apply mitigating factor (11), that the Defendant, although guilty of the crime, committed the offense under such unusual circumstances that it is unlikely that a sustained intent to violate the law motivated his criminal conduct, because he had never been charged with a violent crime prior to this case and because he did not go to work that night intending to shoot anyone. The trial court found the factor was not applicable based on the Defendant's

jailhouse telephone calls. Although the trial court did not elaborate, the Defendant stated in one of the calls that he would have continued shooting if the magazine had not fallen out of his gun. Moreover, the video showed the Defendant approach the victim and try to shoot him while he was wounded and lying on the ground. Therefore, the trial court did not err by refusing to apply mitigating factor (10).

Although the trial court misapplied one enhancement factor, “misapplication of an enhancement or mitigating factor does not invalidate the sentence imposed So long as there are other reasons consistent with the purposes and principles of sentencing, as provided by statute, a sentence imposed by the trial court within the appropriate range should be upheld.” *Bise*, 380 S.W.3d at 706. Additionally, the trial court properly applied two enhancement factors and gave one of them significant weight. Thus, we conclude that the trial court did not abuse its discretion by enhancing the Defendant’s sentence for voluntary manslaughter to twelve years.

As to consecutive sentencing, a trial court has the broad discretion to impose consecutive sentences if it finds by a preponderance of the evidence that one of the criteria in Tennessee Code Annotated section 40-35-115(b) is satisfied. In this case, the trial court found that the Defendant is a dangerous offender whose behavior indicates little to no regard for human life and no hesitation about committing a crime when the risk to human life is high pursuant to Tennessee Code Annotated section 40-35-115(b)(4). When the trial court bases consecutive sentencing on a defendant’s being a dangerous offender, it must also find that an extended sentence is necessary to protect the public against further criminal conduct by the defendant and that the consecutive sentences reasonably relate to the severity of the offense committed. *State v. Lane*, 3 S.W.3d 456, 460-61 (Tenn. 1999); *State v. Wilkerson*, 905 S.W.2d, 933, 937-38 (Tenn. 1995). Merely reciting these “*Wilkerson* factors” is not sufficient; the trial court must make detailed findings of fact in support of its decision. *See State v. Ragland*, No. 2024-00535-CCA-R3-CD, 2025 WL 1430579, at *6 (Tenn. Crim. App. May 19, 2025), *no perm. app. filed*.

In ordering consecutive sentencing, the trial court stated,

[T]he Court needs to make a determination on whether the [D]efendant has, in fact, shown to the Court that he has little, or no disregard for human life, in which the Court has already established as the conduct.

Again, the conduct that is concerning for the Court is that [the Defendant] stood over [the victim] with his gun extended and not that he just stood over, but after the shots were fired [the Defendant] approached [the victim] and stood over him and had it not been for the magazine not being in

the gun, would have continued to fire. Upon not being able to continue to fire, he fled the scene.

He acknowledged in his jail calls that his intent was to flee the scene and that he should have gone to another area where his car was located, showing further, his intent and mindset.

And third, that he had the tools at the house for the switch, when asked why this switch was still on the gun. All of those things further show the [D]efendant's regard for human life, but it is further established when the [D]efendant himself says exactly what he would have done, had he had his full clip in with the Glock switch and that he would have sprayed all of them.

Then the Court is to look at the second factor, whether this is a consecutive sentence is needed to protect the public.

Again, this is a [D]efendant who has no criminal history, but despite not having any criminal history has expressed, in this situation, that had everything gone the way the [D]efendant wanted there would have been more lives at risk.

So[,] with that being said, the Court does find that there is substantial grounds to run these matters consecutive, that a total sentence of fourteen years would be necessary to protect the safety of the public and to appropriately sentence the [D]efendant in this matter.

So[,] the Court will impose the consecutive sentencing in these two matters to an effective sentence of fourteen years to be served.

The trial court considered the Defendant's lack of a criminal history but concluded, after a fact-intensive inquiry, that the *Wilkerson* factors warranted consecutive sentencing. Accordingly, we affirm the effective fourteen-year sentence imposed by the trial court.

CONCLUSION

Upon review of the record and the parties' briefs, we affirm the judgments of the trial court.

s/ JOHN W. CAMPBELL
JOHN W. CAMPBELL, SR., JUDGE