

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

FILED

08/03/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. EVERETT ESHAWN MOORE

Appeal from the Circuit Court for Madison County
No. 22-667 Kyle C. Atkins, Judge

No. W2025-01195-CCA-R3-CD

Defendant, Everett Eshawn Moore, pleaded guilty to attempted especially aggravated robbery and aggravated assault. Defendant requested an alternative sentence, but the trial court imposed an effective eight-year sentence of incarceration, finding the need for deterrence and the seriousness of the offenses warranted confinement. On appeal, Defendant argues that the trial court failed to make sufficient findings on the record and abused its discretion by denying all forms of alternative sentencing. After review, we affirm the judgments of the trial court.

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

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

Kendall Stivers Jones, Assistant Public Defender – Appellate Division, Tennessee District Public Defenders Conference (on appeal); Jeremy Epperson, District Public Defender; and John Hamilton, Assistant Public Defender (at sentencing), for the appellant, Everett Eshawn Moore.

Jonathan Skrmetti, Attorney General and Reporter; G. Kirby May, Assistant Attorney General; Jody S. Pickens, District Attorney General; and Justin Prescott, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

Factual and Procedural Background

On June 27, 2021, a female co-defendant lured the victim, Devin Miller, to the Family Fun Center parking lot in Jackson. After the victim arrived and sat in his car with the female co-defendant, Defendant and a male co-defendant ambushed the victim and forcibly removed him at gunpoint. When the victim attempted to defend himself, Defendant shot him in the leg.

After the shooting, the three defendants fled the scene in a white Nissan Altima. Jackson Police Department officers observed the vehicle speeding away and conducted a traffic stop. During the stop, officers observed a handgun lying at Defendant's feet. All three defendants were arrested, and Defendant provided a post-arrest statement in which he admitted to officers that he and his co-defendants had intended to rob the victim. A Madison County grand jury later indicted the three defendants on charges of (1) attempted especially aggravated robbery; (2) attempted second degree murder; (3) aggravated assault; (4) unlawfully employing a firearm during the commission of a dangerous felony, to wit, attempted second degree murder; and (5) vehicle burglary.

The State tried the female co-defendant first, and a jury convicted her of attempted especially aggravated robbery and aggravated assault. Following her trial, Defendant and the remaining co-defendant entered open guilty pleas to attempted especially aggravated robbery, a Class B felony,¹ and aggravated assault, a Class C felony.² In exchange, the State agreed to dismiss the remaining three charges. Sentencing was left to the discretion of the trial court.

At sentencing, Defendant requested an alternative sentence in lieu of full confinement. He pointed to his lack of criminal history, his work history before arrest, his family support, his young age, and his efforts to obtain his GED and work certifications while incarcerated in the Madison County Jail. The State opposed alternative sentencing, arguing that Defendant should be sentenced "somewhere in the middle range" for the attempted especially aggravated robbery.

¹ Criminal attempt is one offense classification lower than the most serious crime attempted. Tenn. Code Ann. § 39-12-107(a). The completed offense of especially aggravated robbery is considered a Class A felony. *Id.* § 39-13-403(b). Therefore, attempted especially aggravated robbery is considered a Class B felony.

² See Tenn. Code Ann. § 39-13-102(a)(1)(A)(i), -102(d)(1)(A)(i)(a).

Defendant called one witness during the sentencing hearing—his mother, Joanne Momon. She testified that she had been employed as a home health worker for fourteen years and that she lived in Tiplersville, Mississippi, with her other son, who suffered from cerebral palsy. She stated that if the trial court granted an alternative sentence, Defendant could live with her. She also testified that there were “quite a few” opportunities for gainful employment nearby and that Defendant would be surrounded by other extended family members. On cross-examination, Ms. Momon agreed that Defendant was working full-time when he committed these crimes.

Defendant offered an allocution, apologizing to the victim for what he had put him and his family through. He explained that he was “young and dumb when [he] made the biggest mistake of [his] life.” He pledged to “never put [his] life in another situation like this again,” and asked the trial court “to please give [him] a second chance.”

Defendant also filed a notice of mitigating factors, arguing that “because of his youth . . . [he] lacked substantial judgment in committing the offense.” Tenn. Code Ann. § 40-35-113(6). He asked the court to consider his lack of criminal history, his work history, and his family support under the catch-all factor. *Id.* § 40-35-113(13). Defendant acknowledged that he had missed a court date, but he argued that it was a mistake and that he turned himself in to authorities the following day.

The State exhibited Defendant’s presentence report (“PSR”) but offered no other proof. The PSR showed that Defendant had no prior criminal record but indicated that he admitted to smoking marijuana twice a week with a friend. Defendant denied any other illicit drug use. As to his mental health, the PSR showed that Defendant denied being diagnosed with a mental illness or taking medication for a mental health condition. The PSR also included a victim statement, which read in part:

My life has changed drastically. My trust level has completely been broken. My dreams of playing football in college, gone because of the rod placed in my thigh. My walk has a permanent limp. My mother missed wages, she missed days off of work because of the doctors’ visits. Care had to be arranged for me due to not being able to walk, cook or bathe myself. I lost over 20 pounds and [have] been having trouble gaining weight. I lost the car my mother worked hard to give me from this situation. I lost my job and bills have been sent to collections as well as new doctor bills that the insurance didn’t cover.

Multiple times throughout the day I have to deal with PTSD. Many nights I relive the situation and wake up in sweats. This scar on my right thigh and the rod will always be a trigger point for me. On my last X-ray,

you can see the small fragments in my body. A day that started as a family gathering ended in such tragedy, pain and regrets. I can't say I will ever be able to forgive them, but I wouldn't wish this on my worst enemy.

The victim requested the maximum sentence.

The PSR also included a STRONG-R risk and needs assessment, which classified Defendant as a "high risk" overall. Specifically, the assessment identified high needs in "friends/associates" and "residential," and moderate needs in "aggression" and "partner/family and children." The assessment showed that Defendant had not received any violent or serious disciplinary infractions while incarcerated and that he was internally motivated and actively participating as a part-time student. However, the assessment also indicated that, before his arrest, Defendant associated with friends who were "involved in anti-social and/or criminal behaviors" and "rarely resist[ed] going along with anti-social friends." Defendant argued that the negative findings in the STRONG-R stemmed from the nature of the two offenses to which he was pleading guilty and did not describe unrelated conduct.

In imposing sentence, the trial court announced that it considered:

the evidence presented at the sentencing hearing, the presentence report, the principles of sentencing, arguments as to sentencing alternatives, the nature and characteristics of the criminal [conduct] [in]volved, the information regarding mitigating and enhancement factors, statistical information from the Administrative Office of the Courts, [Defendant's] statement, [and] the testimony of his mother, Ms. Momon.

The court found Defendant to be a standard offender; therefore, Defendant was subject to Range I sentences of eight to twelve years for the Class B felony and three to six years for the Class C felony. The court also found that consecutive sentencing did not apply.

The trial court applied enhancement factor two, finding that Defendant was "the leader in the commission of an offense involving two (2) or more criminal actors." Tenn. Code Ann. § 40-35-114(2). The court also applied enhancement factor five, finding that Defendant "treated, or allowed a victim to be treated, with exceptional cruelty during the commission of the offense." *Id.* § 40-35-114(5). Finally, the court applied enhancement factor ten, finding that Defendant "had no hesitation about committing a crime when the risk to human life was high." *Id.* § 40-35-114(10). The court did not apply any mitigating factors.

The trial court then found that Defendant was not a suitable candidate for probation. The court reasoned that the PSR indicated a high overall risk and that there was little information regarding mental or social history, other than his missed court date. The court explicitly found that the facts and circumstances of the offense did not support probation, even though the court found that Defendant's lack of criminal history weighed in favor of granting some form of alternative sentencing. As to Defendant's amenability to rehabilitation, the court found that it did not have "a lot on that other than the high [STRONG-R] score." The court found that the seriousness of the offenses and the need for deterrence both outweighed any factors supporting alternative sentencing. Specifically, the court pointed to the deception involved in luring Mr. Miller into a meeting with the female co-defendant and then shooting him. The court imposed an effective eight-year sentence of confinement at thirty percent service.

Analysis

On appeal, Defendant argues that the trial court failed to make sufficient findings on the record and that it abused its discretion by denying alternative sentencing. Specifically, Defendant contends that his young age, lack of criminal history, and the positive findings in his STRONG-R assessment all support alternative sentencing. Defendant asks this court to review his sentence de novo and impose a new sentence of split confinement. Alternatively, Defendant seeks remand for a new sentencing hearing. The State asks us to uphold the original sentence of full confinement, arguing that the trial court acted within its discretion when it denied alternative sentencing. We agree with the State.

Standard of Review

Defendant argues that the trial court failed to make sufficient findings on the record and that this court should therefore conduct a de novo review. Generally, 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). The abuse of discretion standard applies to all sentencing decisions, *State v. King*, 432 S.W.3d 316, 324 (Tenn. 2014), including "questions related to probation or any other alternative sentence," *State v. Caudle*, 388 S.W.3d 273, 278-79 (Tenn. 2012).

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; Tenn. Code Ann. § 40-35-

210(e)(2). There is no presumption of reasonableness when the trial court fails to consider and weigh the applicable factors. *See King*, 432 S.W.3d at 327-28; *Caudle*, 388 S.W.3d at 279. When imposing a sentence, the trial court must consider: (1) the evidence received at trial and the sentencing hearing; (2) the PSR; (3) the principles of sentencing and arguments as to sentencing alternatives; (4) the nature and characteristics of the criminal conduct involved; (5) evidence related to mitigating and enhancement factors; (6) any statistical information provided by the administrative office of the courts as to the sentencing practices for similar offenses in Tennessee; (7) any statement the defendant made on his own behalf about sentencing; and (8) the result of the validated risk and needs assessment. Tenn. Code Ann. § 40-35-210(b).

The party challenging the sentence bears the burden of showing that the sentence is improper. *See* Tenn. Code Ann. § 40-35-401, Sentencing Comm’n Cmt.; *see also State v. Ashby*, 823 S.W.2d 166, 169 (Tenn. 1991). 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.” *Bise*, 380 S.W.3d at 709-10.

Here, we decline Defendant’s invitation for de novo review and instead review under *Bise*’s abuse of discretion standard. There are no “magic words” that the trial courts must pronounce on the record during sentencing, and the record reflects that the trial court articulated “fully and coherently the various aspects of [its] decision.” *State v. Trent*, 533 S.W.3d 282, 292 (Tenn. 2017). The trial court considered the facts and circumstances of the offense, the PSR, Ms. Momon’s testimony, and Defendant’s allocution. Moreover, the trial court explicitly weighed the confinement factors against Defendant’s lack of criminal history. Because the trial court placed its reasons for imposing confinement on the record, its decision is entitled to a presumption of reasonableness. *See Bise*, 380 S.W.3d at 705.

Alternative Sentencing

“Punishment shall be imposed to prevent crime and promote respect for the law by,” among other things, “[e]ncouraging effective rehabilitation of those defendants, where reasonably feasible, by promoting the use of alternative sentencing and correctional programs that elicit voluntary cooperation of defendants.” Tenn. Code Ann. § 40-35-102(3)(C). Probation is one form of alternative sentencing. *See, e.g., Caudle*, 388 S.W.3d at 279. Generally, a defendant is eligible for alternative sentencing if the sentence actually imposed is ten years or less and the offender is not convicted of certain enumerated offenses. Tenn. Code Ann. § 40-35-303(a). Even when a defendant is eligible for alternative sentencing, it remains that defendant’s burden to establish his or her suitability for alternative sentencing. *Id.* § 40-35-303(b); *Trent*, 533 S.W.3d at 291. This includes demonstrating that probation will “subserve the ends of justice and the best interest of both

the public and the defendant.” *State v. Carter*, 254 S.W.3d 335, 347 (Tenn. 2008) (quoting *State v. Housewright*, 982 S.W.2d 354, 357 (Tenn. Crim. App. 1997)).

Under our Sentencing Reform Act, only those offenders who are classified as “an especially mitigated or standard offender convicted of a Class C, D or E felony” are considered favorable candidates for alternative sentencing. Tenn. Code Ann. § 40-35-102(6)(A). Because this guideline is not mandatory, eligible defendants who do not qualify for favorable status may still be granted an alternative sentence. *Id.* § 40-35-102(6)(D). Courts must also consider “the potential or lack of potential for the rehabilitation or treatment of the defendant.” *Id.* § 40-35-103(5). Sentences involving confinement must be based on the following considerations:

- (1) Confinement is necessary to protect society by restraining a defendant who has a long history of criminal conduct;
- (2) Confinement is necessary to avoid depreciating the seriousness of the offense or confinement is particularly suited to provide an effective deterrence to others likely to commit similar offenses; or
- (3) Measures less restrictive than confinement have frequently or recently been applied unsuccessfully to the defendant[.]

Id. § 40-35-103(1). Whatever the sentence imposed, it “should be no greater than that deserved for the offense committed,” and it “should be the least severe measure necessary to achieve the purposes for which the sentence is imposed.” *Id.* § 40-35-103(2), (4).

We conclude that the trial court did not abuse its discretion and that its sentencing decision reflected a “proper application of the purposes and principles of our Sentencing Act.” *Bise*, 380 S.W.3d at 708. Although Defendant was eligible for alternative sentencing under our Sentencing Reform Act, he was not considered a favorable candidate for alternative sentencing because he pleaded guilty to a Class B felony. *See* Tenn. Code Ann. § 40-35-102(6)(A); *State v. Hall*, No. W2025-00641-CCA-R3-CD, 2025 WL 3535479, at *4 (Tenn. Crim. App. Dec. 10, 2025) (concluding otherwise eligible defendant was not favorable candidate for alternative sentencing), *no perm. app. filed*. To support its decision, the trial court relied upon the seriousness of the offense, the need for deterrence, and that Defendant was not a favorable candidate for alternative sentencing. Although Defendant claims that the court largely ignored the positive findings in the STRONG-R assessment, the court concluded that the evidence related to Defendant’s mental and social history and his amenability to rehabilitation was insufficient to outweigh the need for confinement.

Defendant argues that the heightened standards for establishing the two confinement factors relied upon by the trial court should apply here—namely, the need for deterrence and the need to avoid depreciating the seriousness of the offense. In *State v. Hooper*, our supreme court held that a defendant may be denied alternative sentencing based solely on the need for deterrence only if the record contains evidence that “would enable a reasonable person to conclude that (1) deterrence is needed in the community, jurisdiction, or state; and (2) the defendant’s incarceration may rationally serve as a deterrent to others similarly situated and likely to commit similar crimes.” 29 S.W.3d 1, 13 (Tenn. 2000). In *State v. Trotter*, our supreme court stated that “[i]f the seriousness of the offense forms the basis for the denial of alternative sentencing, . . . the circumstances of the offense must be especially violent, horrifying, shocking, reprehensible, offensive or otherwise of an excessive or exaggerated degree, and the nature of the offense must outweigh all factors favoring a sentence other than confinement.” 201 S.W.3d 651, 654 (Tenn. 2006) (citation modified). Because the circumstances in *Trotter* were “indeed offensive, excessive, and of an exaggerated degree,” the court held that “the seriousness of the offense *alone*” justified the denial of alternative sentencing. *Id.* at 655 (emphasis added). Our supreme court revisited both issues in *State v. Sihapanya*, holding that “the heightened standard of review that applies to cases in which the trial court denies probation based on only one of these factors [was] inapplicable” because the trial court considered both the need for deterrence and the need to avoid depreciating the seriousness of the offense. 516 S.W.3d 473, 476 (Tenn. 2014).

Just as in *Sihapanya*, the trial court in this case relied upon these two confinement factors collectively. Even so, the court noted the offensive nature of using deception to lure the victim into the meeting with the female co-defendant. The court also noted that Defendant was not a favorable candidate for probation under the principles of our Sentencing Reform Act. Because the court relied upon these factors collectively, the heightened standards under *Hooper* and *Trotter* for establishing the confinement factors do not apply.

We conclude that the court did not apply an incorrect legal standard, reach an illogical conclusion, base its ruling on a clearly erroneous assessment of the proof, or apply reasoning that caused an injustice. *See Phelps*, 329 S.W.3d at 443. Defendant received a within-range sentence that complied with the purposes and principles of our Sentencing Reform Act. *Bise*, 380 S.W.3d at 709-10. Accordingly, Defendant is not entitled to relief.

Conclusion

For the reasons above, we affirm the judgments of the trial court.

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