

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs July 9, 2026

FILED

07/31/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. JESUS CASTANON

Appeal from the Criminal Court for Shelby County

No. 20-02396

James Jones, Jr., Judge

No. W2025-01586-CCA-R3-CD

Defendant, Jesus Castanon, appeals his conviction for rape of a child and his resulting forty-year sentence. On appeal, Defendant maintains that the evidence is insufficient to support his conviction and that his sentence is excessive. Upon review, we affirm.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Criminal 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.

Jerri Green, Chief Public Defender; and Barry W. Kuhn, Assistant Public Defender (on appeal); and Louis Chiozza (at trial), Memphis, Tennessee, for the appellant, Jesus Castanon.

Jonathan Skrmetti, Attorney General and Reporter; Ronald L. Coleman, Senior Assistant Attorney General; Joshua R. Gilbert, Legal Assistant (pro hac vice); Steven J. Mulroy, District Attorney General; and Tanisha Johnson and William Wetter, Assistant District Attorneys General, for the appellee, State of Tennessee.

OPINION

Factual and Procedural History

Defendant was indicted on one count of rape of a child involving the victim, the granddaughter of Defendant's former girlfriend. The victim was between the ages of three and five at the time of the offense. The victim disclosed the rape in 2019 when she was nine years old after Defendant attempted another act of sexual abuse against her. The case proceeded to trial in December 2024 during which the following evidence was presented.

Trial

The victim was born in May 2009. In 2013, the victim, her mother, and her sister moved into the home where the victim's grandmother and Defendant lived. The five of them lived together in multiple homes in Memphis throughout 2013. In 2014, the victim's grandmother and Defendant ended their relationship, and the victim, her mother, her grandmother, and her sister moved into another house. The victim's grandmother and Defendant remained friends, and Defendant continued visiting the victim's family, who called Defendant "Salvador." At some point, the victim, her mother, and her sister moved to Georgia, but the victim and her sister continued spending summers with her grandmother. In 2018, the victim, her mother, and her sister moved back in with her grandmother in Memphis, and by that time, the victim's four cousins also were living there. Defendant continued coming to the home to visit the family even when the victim's grandmother was not there, and he accompanied the victim to a father/daughter dance on one occasion.

The victim's grandmother testified that on April 27, 2019, the victim was sitting with her on her bed when Defendant entered the bedroom and sat at the end of the bed. The victim moved closer to her grandmother at the head of the bed, but her grandmother "didn't think nothing about it." Defendant put his hand underneath the blankets, and the victim moved even closer to her grandmother. Her grandmother did not see what occurred underneath the blankets. The victim went to the bathroom to search for an item, and Defendant also left the bedroom. After approximately ten to fifteen minutes, the victim and her cousin entered the bedroom and stated that Defendant had been in the bathroom with the victim. The victim's grandmother said they did "[n]ot really" tell her what occurred in the bathroom. The victim's grandmother called for Defendant but later learned that he had left.

The victim's mother was outside working on her car, which had a dead battery. When Defendant came outside, she asked him to jump off her car. He did so and left. The victim's mother testified that the victim's cousin came outside and informed her that she had caught Defendant in the bathroom with the victim. The victim's mother spoke to the victim, who stated that while in the bathroom, Defendant told her to pull down her pants because he wanted to "lick her private parts." The victim said that prior to this incident, Defendant had placed his hand on her leg while they were sitting on the bed in her grandmother's bedroom. Based on the victim's statements, her mother called the police.

Officer Jennifer Brown of the Memphis Police Department ("MPD") responded to the call. She testified that she spoke to the victim, who seemed "uncomfortable" and was "clinging to her mother." The victim reported that while she was in the bathroom, a man,

whose name Officer Brown could not recall, entered. The victim stated that the man pulled down her pants and underwear and said he wanted to “lick” her. The victim did not report that the man touched her.

The victim’s mother subsequently took the victim to the Memphis Child Advocacy Center where she underwent a forensic interview, which was video recorded and entered as an exhibit at trial. During the forensic interview, the victim said “Salvador,” her grandmother’s “friend,” touched her in “an inappropriate way.” The victim said that she was on her grandmother’s bed with her grandmother when Defendant entered the room and put his hand on her leg. The victim stated that she was wearing shorts and that Defendant touched her leg and not her clothing. She stated that when Defendant did so, she moved closer to her grandmother, who was on her cell phone and did not see Defendant touching the victim’s leg.

The victim said she went into the bathroom to open “something” for her cousin, who was in the living room. Defendant entered the bathroom, closed the door, pulled down her pants, and tried to lick her “private.” The victim said she pushed Defendant away, pulled up her pants, and reported the incident to her cousin.

The victim stated that when she was three years old, Defendant put his “middle part in mine” while they were on a brown couch. The victim’s mother testified at trial that she purchased a brown couch in April 2013 and that she still had the couch at the time of trial. During the forensic interview, the victim said Defendant had his “middle part” in her “middle part.” When the forensic interviewer asked the victim about Defendant’s “middle part,” the victim pointed to the area of her groin. The forensic interviewer asked the victim to circle the “middle parts” to which she was referring on drawings of a boy and a girl, and the victim did so. The State did not enter these drawings as exhibits at trial. However, the video recording of the forensic interview reflects that the interviewer pointed to an area of the drawing of the girl and asked the victim what she called that area. The victim responded that she called the area a “private” and that her grandmother referred to the area as a “vagina.” When the forensic interviewer asked how Defendant’s “private” touched her “private,” the victim stated that it was “in my private.” The victim did not recall how Defendant’s body was positioned and said she was scared when it occurred.

The victim, who was fifteen years old at the time of trial, testified that when she was between the ages of three and five, Defendant “put his middle part inside mine” and that “[i]t hurt[].” She said they were sitting on a brown couch in the living room of the home where she lived with her mother, her sister, her grandmother, and Defendant. She did not know where everyone else was at that time. She explained that she did not tell anyone when the incident occurred because she “didn’t know what was going on” and she did not know what had occurred was wrong. The victim reported it while she was at the “place

with the teddy bears,” and she affirmed that she told the truth to the woman who conducted the interview. Teresa Onry, the forensic interviewer, testified at trial that the room where the forensic interview occurred had teddy bears on the wall.

The victim testified that when she was nine years old, she was in the bathroom opening a bath bomb for her cousin when Defendant entered the bathroom. She said Defendant entered the bathroom, closed the door, pulled down her jeans, and tried to lick her “middle part.” The victim pushed Defendant away from her, and her cousin called out her name. Defendant then pulled up the victim’s pants, opened the bathroom door, and left. The victim told her cousin what had occurred, and her cousin told her mother, who called the police. The victim did not recall anything else occurring with Defendant that day.

Colonel Clarita Taylor, who was a sergeant in MPD’s Sex Crimes Juvenile Division in 2019, was the lead investigator in the case. She interviewed Defendant using an interpreter. Defendant waived his *Miranda* rights and agreed to an interview. The interview was audio recorded, and the recording was entered as an exhibit at trial. During the interview, Defendant denied sexually abusing the victim and said he was never alone with the victim. He reported that he got along with the victim and her family and that the victim referred to him as “grandpa.”

At the conclusion of the proof, the State elected the incident where Defendant penetrated the victim on the couch to support the rape of a child charge. The jury returned a verdict convicting Defendant of rape of a child.

Sentencing Hearing

During the sentencing hearing, the State did not present any witnesses but relied on the presentence report and the psychosexual risk assessment, which were entered as exhibits. According to the report and assessment, Defendant had prior traffic-related convictions, as well as a prior conviction for entry without inspection when he illegally entered the United States. The State also relied on the unredacted recording of the victim’s forensic interview and argued that Defendant committed three additional acts or attempted acts of sexual abuse against the victim in addition to the rape of a child for which he was convicted. The trial court had excluded evidence of two other acts at trial pursuant to Tennessee Rule of Evidence 404(b). The first instance involved Defendant touching the victim’s vagina underneath her clothes while they were in Defendant’s van, and the second instance occurred in the kitchen when Defendant pulled down the victim’s pants and tried to lick her vagina. The third additional instance relied upon by the State was the event in the bathroom, which led to the rape disclosure.

The psychosexual assessment reflected that during Defendant's interview in preparation of the assessment, he continued denying that he committed the offense. During the assessment, Defendant "demonstrated purposeful efforts to avoid looking at images of people," and "[d]ue to noncompliance, the interpretation of the results may be not an accurate reflection of sexual interest." The assessment noted that "[c]linically, those with this type of response are generally in significant denial, defiance, or non-compliant in treatment. It is likely that he is not being honest in his assessment, or treatment, concerning the extent and nature of his sexual behavior." The assessment reflected that Defendant had a high risk to reoffend.

In imposing a sentence, the trial court considered Defendant's presentence report, his psychosexual assessment, the statutory enhancement and mitigating factors, arguments by the parties, and the evidence presented at trial. The court applied enhancement factor (1), that Defendant "has a previous history of criminal convictions or criminal behavior, in addition to those necessary to establish the appropriate range[.]" and the court gave the factor "some weight." Tenn. Code Ann. § 40-35-114(1). The court stated that although the presentence report reflected a lack of criminal convictions, the testimony at trial the victim's statements during the forensic interview reflected that Defendant committed other acts against the victim such that the rape of a child was not a "standalone event." The court applied enhancement factor (7), "[t]he offense involved a victim and was committed to gratify the defendant's desire for pleasure or excitement[.]" and the court gave the factor "great weight." *Id.* § 40-35-114(7). The court found that based on the evidence presented at trial, the results of the psychosexual assessment, and Defendant's responses during the assessment, the act was committed "[f]or the very purpose of the defendant's desire for pleasure and excitement." The court applied enhancement factor (14), that Defendant "abused a position of public or private trust[.]" and the court gave "weight" to the enhancement factor. *Id.* § 40-35-114(14). The court found the relationship between the victim and Defendant established a private trust, noting that they went to events together and that the victim looked at Defendant "as somewhat of a grandfather figure, as he was dating the grandmother." Finally, the court applied enhancement factor (28), "[a]t the time the instant offense was committed, the defendant was illegally or unlawfully in the United States[.]" and the court gave "some consideration" to the enhancement factor. *Id.* § 40-35-114(28). The court noted that according to the presentence report and the psychosexual assessment, Defendant entered the country illegally and never gained legal immigration status.

The trial court said Defendant did not argue for the application of any mitigating factors. The court observed the psychosexual assessment reflected that Defendant had a "high risk of recidivism" and "an overall risk of high in almost every assessment." The court noted that it appeared that Defendant participated in two evaluations but that during the evaluations, Defendant failed to comply with some of the instructions, "which led to

certain conclusions based off of his noncompliance.” The court found that regardless, “there’s nothing as far as the assessment that has taken place that speaks in favor of [Defendant].”

The trial court concluded that based on the information in the psychosexual assessment and the presentence report, the applicable enhancement factors, and the evidence presented at trial, the maximum sentence within the range was warranted. The court sentenced Defendant to forty years’ incarceration as a Range II offender at one hundred percent service.

Defendant filed a motion for new trial, which the trial court denied following a hearing. This appeal follows.

Analysis

A. Sufficiency

Defendant challenges the sufficiency of the evidence supporting his conviction for rape of a child, arguing that the State’s proof is “too ambiguous and uncertain to sustain a verdict.” The State responds that the evidence is sufficient to support Defendant’s conviction. We agree with the State.

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

We must decline any invitation to revisit witness credibility or any purported discrepancies in the evidence because the jury, not this court, resolves all questions involving the credibility of the witnesses, the weight and value to be given to evidence, and the factual disputes raised by such evidence. *See Dorantes*, 331 S.W.3d at 379 (citing *State*

v. Campbell, 245 S.W.3d 331, 335 (Tenn. 2008)). Accordingly, this court will neither reweigh nor reconsider the evidence when evaluating the sufficiency of the convicting proof. *State v. Stephens*, 521 S.W.3d 718, 724 (Tenn. 2017).

At the time of the offense, rape of a child was defined as “the unlawful sexual penetration of a victim by the defendant or the defendant by a victim, if the victim is more than three (3) years of age but less than thirteen (13) years of age.” Tenn. Code Ann. § 39-13-522(a) (eff. until July 2020).¹ “Sexual penetration” is defined as “sexual intercourse . . . or any other intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of the victim’s, the defendant’s, or any other person’s body, but emission of semen is not required[.]” *Id.* § 39-13-501(7).

The evidence presented at trial, when viewed in the light most favorable to the State, established that when the victim was nine years old, Defendant put his hand on her leg and followed her into a bathroom where he pulled down her pants in an effort to lick her “middle part.” The victim’s mother called the police after which the victim underwent a forensic interview. During the forensic interview, she disclosed that Defendant previously put his “middle part” in her “middle part.” The victim likewise testified at trial that Defendant “put his middle part inside mine” when she was between three and five years old.

Defendant contends that the evidence was insufficient to establish sexual penetration and asserts that the victim failed to identify the areas of the body to which she referred as the “middle part.” However, during the forensic interview, the victim alternated between referring to the areas as a “middle part” and a “private.” She identified Defendant’s “middle part” by pointing to drawings of a boy and a girl, pointing to the area of her groin and said her grandmother referred to the victim’s “private” as a “vagina.” We conclude that this evidence was sufficient to establish the areas of Defendant’s body and the victim’s body to which the victim was referring. The victim stated both during the forensic interview and at trial that Defendant “middle part” was in her “middle part,” and the victim testified at trial that it “hurt.” The testimony of a minor victim alone is sufficient to support a conviction. *See State v. Elkins*, 102 S.W.3d 578, 582-83 (Tenn. 2002); *State v. Harris*, No. W2024-01945-CCA-R3-CD, 2026 WL 413301, at *4 (Tenn. Crim. App. Feb. 13, 2026), *no perm. app. filed*; *State v. Pittman*, No. W2024-00807-CCA-R3-CD, 2025 WL 2048406, at *3 (Tenn. Crim. App. July 22, 2025), *perm. app. denied* (Tenn. Jan. 15, 2026); *State v. Vasquez*, No. E2024-00317-CCA-R3-CD, 2025 WL 1203100, at *4 (Tenn. Crim. App. Apr. 25, 2025), *no perm. app. filed*. The evidence is sufficient to

¹ The statute was amended effective July 1, 2020, to define rape of a child as “the unlawful sexual penetration of a victim by the defendant or the defendant by a victim, if the victim is more than eight (8) years of age but less than thirteen (13) years of age.” Tenn. Code Ann. § 39-13-522(a) (Supp. 2020).

establish sexual penetration and, thus, rape of a child. Defendant is not entitled to relief on this issue.

II. Sentencing

Defendant challenges his sentence as excessive. The State responds that the trial court did not abuse its discretion in imposing the maximum sentence within the applicable range. We agree with the State.

A trial court's sentencing decisions, generally, are reviewed for abuse of discretion with a presumption of reasonableness granted to within-range sentences that reflect a proper application of the purposes and principles of sentencing. *State v. Bise*, 380 S.W.3d 682, 707 (Tenn. 2012). This court will uphold the sentence "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. This court cannot reverse a sentence based on the trial court's failure to adjust a sentence in "light of applicable, but merely advisory, mitigating or enhancement factors." *State v. Carter*, 254 S.W.3d 335, 346 (Tenn. 2008). The trial court is "to be guided by – but not bound by – any applicable enhancement or mitigating factors when adjusting the length of a sentence." *Bise*, 380 S.W.3d at 706. Further, "a trial court's misapplication of an enhancement or mitigating factor does not invalidate the sentence imposed unless the trial court wholly departed from the 1989 Act, as amended in 2005." *Id.* A sentence imposed by the trial court that is within the appropriate range should be upheld "[s]o long as there are other reasons consistent with the purposes and principles of sentencing, as provided by statute." *Id.* The appealing party bears the burden of proving that the sentence was improper. *Carter*, 254 S.W.3d at 344.

In determining "the specific sentence and the appropriate combination of sentencing alternatives," the trial court must consider: (1) the evidence at 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) the evidence and information offered by the parties on the applicable mitigating and enhancement 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 the defendant wishes to make in the defendant's own behalf about sentencing; 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). The trial court also should consider the defendant's potential or lack of potential for rehabilitation. *Id.* § 40-35-103(5). The trial court should impose a sentence which is "justly deserved in relation to the seriousness of the offense." *Id.* § 40-35-102(1). The sentence should be "the least severe measure necessary to achieve the purposes for which the sentence is imposed," and is should "be no greater than that deserved for the offense committed." *Id.* § 40-35-103(5).

At the time of the offense, Tennessee Code Annotated section 39-13-522(b)(2)(A) mandated a sentence as a Range II offender for a conviction for rape of a child, a Class A felony.² Defendant, thus, was subject to a sentence of twenty-five to forty years. *See id.* § 40-35-112(b)(1). The trial court imposed a forty-year sentence, the maximum sentence within the statutory range.

The record reflects that in sentencing Defendant, the trial court considered Defendant's presentence report, his psychosexual assessment, the statutory enhancement and mitigating factors, arguments by the parties, and the evidence presented at trial. The court applied four enhancement factors: (1) Defendant "has a previous history of criminal convictions or criminal behavior, in addition to those necessary to establish the appropriate range[;]" (7) "[t]he offense involved a victim and was committed to gratify the defendant's desire for pleasure or excitement[;]" (14) Defendant "abused a position of public or private trust[;]" and (28) "[a]t the time the instant offense was committed, the defendant was illegally or unlawfully in the United States[.]" Tenn. Code Ann. § 40-35-114(1), (7), (14), (28). The court assigned weight to each enhancement factor and found that no mitigating factors applied.

Defendant does not specifically challenge the trial court's application of these four enhancement factors. Rather, he contends that the trial court improperly applied the psychosexual assessment as an enhancement factor. Contrary to Defendant's argument, the record reflects that the trial court did not consider the psychosexual assessment as a separate enhancement factor. Rather, the trial court considered the information and conclusions in the assessment in applying statutory enumerated enhancement factors and in weighing the information before the court in determining a sentence. A trial court's consideration of a psychosexual assessment in determining the sentence for a convicted sex offender is mandated by statute. *See* Tenn. Code Ann. § 39-13-705(b). Thus, the trial court did not err in considering Defendant's psychosexual assessment in imposing a sentence.

Defendant also contends that the trial court erred in imposing the maximum sentence due to his lack of prior criminal convictions. The trial court noted although Defendant's history of criminal convictions was sparse, the evidence presented at trial and the victim's statements during the forensic interview reflected that the rape of the victim was not a "standalone event" and that Defendant had committed or attempted to commit other acts of sexual abuse against the victim. The trial court concluded that based on the

² Tennessee Code Annotated section 39-13-522(b) was amended effective July 1, 2024, so that an adult defendant convicted of rape of a child is subject to a sentence of life imprisonment, life imprisonment without parole, or the death penalty.

information in the presentence report and the psychosexual assessment, the applicable enhancement factors, and the evidence presented at trial, the maximum forty-year sentence within the applicable range was warranted. The trial court's determination is consistent with the purposes and principles of sentencing, and the trial court did not abuse its discretion in imposing the maximum sentence within the range.

Conclusion

Based on the foregoing reasoning, we affirm the judgment of the trial court.

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