

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON

Assigned on Briefs August 4, 2026

FILED

10/01/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. RYAN KELLEY MCEL RATH

Appeal from the Circuit Court for Madison County
No. 24-874 Kyle C. Atkins, Judge

No. W2025-01712-CCA-R3-CD

The Defendant, Ryan Kelley McElrath, pled guilty in the Madison County Circuit Court in case number 24-874 to three counts of statutory rape by an authority figure, a Class B felony, and two counts of sexual battery by an authority figure, a Class C felony. The trial court sentenced the Defendant to concurrent terms of nine years for each statutory rape by an authority figure conviction and concurrent terms of three years for each sexual battery by an authority figure conviction and ordered that the effective three-year sentence be served consecutively to the effective nine-year sentence, for a total effective sentence of twelve years' incarceration. On appeal, the Defendant contends that the trial court erred in applying the particularly-vulnerable-victim enhancement factor and in ordering consecutive sentences. Based on our review, we affirm the judgments of the trial court.

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

JOHN W. CAMPBELL, SR., J., delivered the opinion of the court, in which STEVEN W. SWORD and STACY L. STREET, JJ., joined.

John D. Hamilton, Assistant Public Defender, Jackson, Tennessee (on appeal), and Jennifer D. Free, Jackson, Tennessee (at guilty plea/sentencing hearing), for the appellant, Ryan Kelley McElrath.

Jonathan Skrmetti, Attorney General and Reporter; Julia A. Johnson, Assistant Attorney General; Jody S. Pickens, District Attorney General; and Katie Ferguson, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

FACTS

On December 2, 2024, the Madison County Grand Jury indicted the Defendant in case number 24-874 for three counts of statutory rape by an authority figure and two counts of sexual battery by an authority figure. The victim was seventeen-year-old M.B.¹, and the Defendant was the youth pastor at the victim's church.

On September 29, 2025, the Defendant entered a guilty plea to all five counts as charged in the indictment, with sentencing to be determined by the trial court. At the combined guilty plea/sentencing hearing, the prosecutor explained that there were "two pleas, one for Madison County and one for Henderson County[,]” that the Defendant had not yet been arraigned on the Henderson County case, and that the Defendant wished to “waive formal reading and enter a not guilty plea for record purposes.” The prosecutor said that the Defendant was charged in Henderson County case number 24-267 with statutory rape by an authority figure and two counts of sexual battery by an authority figure involving the same victim. Defense counsel informed the trial court that the Defendant was stipulating that there were sufficient facts to support the entry of both the Madison County and Henderson County pleas.

The prosecutor announced that her recitation of facts was “going to cover the facts for both the Madison County indictment and the Henderson County indictment.” The prosecutor stated that the Defendant became the youth pastor at the victim's church in April 2021, and that the victim, who was in the eighth or ninth grade at the time, was a member of the Defendant's youth group. The prosecutor said that the Defendant began weekly private counseling sessions with the victim in 2022, with their meetings occurring at the church “and other off-campus locations.” The prosecutor stated that the victim began dating the Defendant's son in December 2023, and that the Defendant and the victim “communicated daily with each other via text message, phone calls, and Facetime.” The prosecutor further stated that

On May 31[], 2024, at [the Defendant's church in Jackson] the [D]efendant . . . 39 years old at the time, did engage in a sexual relationship with the victim, who was 17 years old at the time.

The victim reported that the [D]efendant inserted his fingers . . . inside her vagina. The [D]efendant did touch the victim's vagina with his mouth. The [D]efendant rubbed his penis on the outside of the victim's vagina and the victim did touch the [D]efendant's penis with her hand.

¹ Consistent with the policy of this court, we refer to the minor victim by her initials only.

Between May 5[, 2024, and June 11[[],] 2024, the [D]efendant . . . and the victim engaged in sexual relations on multiple occasions at Godwin Park here in Madison County, Tennessee.

The victim reported [the D]efendant inserted his fingers inside her vagina and the [D]efendant touched the outside of the victim's vagina with his fingers.

The victim's report of sexual relations is corroborated by text messages between the [D]efendant and the victim as well as a diary and letters written by both the [D]efendant and the victim. And the [D]efendant . . . did admit to having these sexual relations with the minor victim.

At the conclusion of her recitation, the prosecutor corrected that the above facts were for the Madison County case because that was the one that the Defendant was "pleading blind on." The prosecutor stated that it was her understanding that the parties would agree for the sentences for the Henderson County convictions to match the sentences for the Madison County convictions. The Defendant agreed and stipulated to the facts in the Henderson County case. In response to questions by the trial court, the Defendant acknowledged that the facts recited by the prosecutor in the Madison County case and the facts he had reviewed with his counsel in the Henderson County case were "substantially correct."

The State proposed as enhancement factors that the victim was particularly vulnerable because of age or physical or mental disability, the offense involved a victim and was committed to gratify the defendant's desire for pleasure or excitement, and the defendant abused a position of public or private trust or used a professional license in a manner that significantly facilitated the commission or the fulfillment of the offense. *See* Tenn. Code Ann. § 40-35-114 (4), (7), (14). The State argued that consecutive sentencing was warranted under Tennessee Code Annotated section 40-35-115 (b)(5) and proposed that the trial court order some combination of consecutive sentences to reach an effective sentence of twenty to twenty-four years.

The Defendant argued that the Defendant's violation of a position of public or private trust was an essential element of all the criminal offenses and that Defendant's having committed the crimes to satisfy his desire for pleasure and excitement was an essential element of sexual battery by an authority figure. He further argued that the particularly-vulnerable-victim enhancement factor was inapplicable because there was nothing to show that the victim, seventeen and one-half years old at the time of the offenses, was unable to resist or summon help.

Defense counsel informed the trial court that the Defendant had pled guilty in Gibson County in a case involving the same victim “to a ten-year sentence” for two counts of statutory rape by an authority figure and “two counts of sexual battery by an authority figure, five years on each of those sentences.” Defense counsel stated that there were “more contacts that occurred in Madison County than in Gibson County[,]” which was why she was proposing a total seventeen-year sentence for the Madison and Henderson County convictions.

Defense counsel also informed the trial court that the Defendant had pled guilty in federal district court based on his cell phone communications with the victim and that the Defendant was serving a 252-month sentence in his federal case. She stated that there was no doubt that the Defendant “committed multiple crimes in multiple jurisdictions[,]” but asserted that the Defendant had taken responsibility for his actions. In support, she pointed to the Defendant’s entry of guilty pleas in the cases and the Defendant’s having read into the record in his federal case an eight-page document in which he acknowledged responsibility for his actions, apologized to the victim, the victim’s family, and his church, and expressed his remorse. Defense counsel pointed out that all the cases involved the same victim and requested that the trial court order all sentences to run concurrently, proposing a total sentence of seventeen years in both cases, “however the Court wants to fashion that.”

At the conclusion of the hearing, the trial court found that the victim was particularly vulnerable and that consecutive sentences were warranted because the Defendant committed more than one offense involving the sexual abuse of a minor. *See* Tenn. Code Ann. § 40-35-115 (b)(5). With respect to the aggravating circumstances of that factor, the trial court noted that the Defendant was the victim’s youth pastor and counselor, and that the sexual activity included the Defendant’s penetration of the victim.

In its review of the factors weighing for and against probation, the trial court stated that it “c[ould]n’t think of anything more gross or heinous” than a church counselor sexually abusing a minor victim. Based on its review of those factors, the trial court concluded that the Defendant was not a suitable candidate for an alternative sentence.

The trial court sentenced the Defendant in the Madison County case as a Range I offender to concurrent terms of nine years for each of the Class B felonies of statutory rape by an authority figure, one year beyond the minimum sentence in the Defendant’s range. The trial court sentenced the Defendant to concurrent terms of three years for each of the Class C felonies of sexual battery by an authority figure, the minimum sentence in the Defendant’s range, and ordered those sentences served consecutively to the nine-year sentence for statutory rape by an authority figure. According to the sentencing hearing transcript, the trial court imposed the same nine- and three-year sentences, respectively, for

the offenses in the Henderson County case, and again ordered that the effective three-year sentence for sexual battery by an authority figure be served consecutively to the effective nine-year sentence for statutory rape by an authority figure. Finally, the trial court ordered that the twelve-year Henderson County sentence be served consecutively to the twelve-year Madison County sentence. Thereafter, the Defendant filed a timely appeal to this court of the judgment entered in the Madison County case but not the Henderson County case.

ANALYSIS

On appeal, the Defendant challenges the trial court's enhancing his sentences beyond the minimum for his statutory rape convictions from both Madison and Henderson County on the grounds that the victim was particularly vulnerable and the trial court's imposition of consecutive sentences that resulted in his effective aggregate twenty-four-year sentence in both cases. The State argues that this court lacks jurisdiction to review the Defendant's convictions in the Henderson County case because the Defendant failed to file a notice of appeal in that case and failed to include the relevant documents relating to those convictions in the record on appeal. In the Madison County case, the State argues that the trial court properly applied the particularly-vulnerable-victim enhancement factor and properly ordered partial consecutive sentences.

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). “[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. 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.

As an initial matter, we agree with the State that we lack jurisdiction to review the Henderson County convictions. The Defendant did not file a notice of appeal for the Henderson County case and did not include in the record either the Henderson County indictment or the judgments.² *See State v. Jones*, No. W2022-01270-CCA-R3-CD, 2023 WL 3451553, at *4 (Tenn. Crim. App. May 15, 2023), *perm. app. denied* (Tenn. Aug. 9, 2023) (concluding that a defendant’s claims regarding a case that he failed to include in his notice of appeal and for which he failed to include the relevant documents were not properly before this court).

The Defendant argues that the trial court misapplied the particularly-vulnerable-victim enhancement factor because nothing in the record supported a finding that the victim’s age or mental or physical condition caused her to be particularly vulnerable, and because the trial court failed to make any specific findings as to why the enhancement factor applied. In *State v. Poole*, 945 S.W.2d 93, 96 (Tenn. 1997), our supreme court stated that in determining the applicability of the particularly-vulnerable-victim enhancement factor, “the trial court must consider a number of factors and must make factual findings. It should consider whether evidence in the record with regard to the victim’s age or physical

² The Defendant attached the Henderson County judgments to his appellate brief. However, documents attached to appellate briefs are not considered part of the record on appeal. *See State v. Price*, 46 S.W.3d 785, 812 (Tenn. Crim. App. 2000); *Best v. State*, 708 S.W.2d 421, 423 (Tenn. Crim. App. 1985).

and mental attributes demonstrated an inability to resist the crime, summon help, or testify at a later date.” “A victim’s youth does not necessarily equate with vulnerability[.]” *State v. Lewis*, 44 S.W.3d 501, 505 (Tenn. 2001) (citing *Poole*, 945 S.W.2d at 96) (additional citation omitted). Although the proof “need not be extensive[.]” “[t]he State is required to proffer evidence in addition to the victim’s age to establish particular vulnerability[.]” *Id.* (quoting *Poole*, 945 S.W.2d at 97).

We agree with the Defendant that nothing in the record supports the trial court’s finding that the victim was particularly vulnerable, and that the trial court failed to make specific findings in support of its application of the enhancement factor. However, “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. Thus, although the trial court may have misapplied the particularly-vulnerable-victim enhancement factor, we conclude that it did not abuse its discretion by enhancing the Defendant’s sentence for statutory rape by an authority figure from eight to nine years.

The Defendant also argues that the trial court erred in imposing consecutive sentences under the child sexual abuse factor of the consecutive sentencing statute. A trial court has the broad discretion to impose consecutive sentences if it finds by a preponderance of the evidence that any one of the criteria in Tennessee Code Annotated section 40-35-115(b) is satisfied, including the child sexual abuse factor, which provides:

(5) The defendant is convicted of two (2) or more statutory offenses involving sexual abuse of a minor with consideration of the aggravating circumstances arising from the relationship between the defendant and victim or victims, the time span of defendant’s undetected sexual activity, the nature and scope of the sexual acts and the extent of the residual, physical and mental damage to the victim or victims[.]

Tenn. Code Ann. § 40-35-115(b)(5).

The Defendant points out that the only proof offered at the hearing was the prosecutor’s recitation of the facts and argues that without either lay or expert testimony about the effect of the abuse on the victim, the trial court abused its discretion in ordering consecutive sentences. He asserts that the nature of the relationship between the Defendant and the victim and the Defendant’s digital penetration of the victim was not enough, alone, to show the required aggravating circumstances. The State cites *State v. Doane*, 393 S.W.3d 721, 738 (Tenn. Crim. App. 2011), for the proposition that not all the aggravating circumstances listed in Tennessee Code Annotated section 40-35-115(b)(5) must be

present to support the imposition of consecutive sentencing and argues that the trial court properly exercised its discretion in imposing partially consecutive sentences based on the stipulated facts. We agree with the State.

In *Doane*, we concluded that it is unnecessary for each aggravating circumstance of the child sexual abuse factor to be present to justify consecutive sentencing so long as the record contains sufficient proof of some aggravating circumstances:

The Defendant also contends that because his actions were not as “egregious” as the actions of other defendants, the nature and scope of the sexual acts cannot justify consecutive sentences. However, not all of the aggravating circumstances listed in section 40–35–115(b)(5) “must be present to support the imposition of consecutive sentencing.” *State v. James M. Powers*, No. E2001–02363–CCA–R3–CD, 2002 WL 31387308, at *5 n. 4 (Tenn. Crim. App. Oct. 23, 2002), *perm. app. denied* (Tenn. March 10, 2003). Furthermore, consecutive sentences may still be appropriate under section 40–35–115(b)(5) even when one factor militates against them if the other aggravating circumstances have been established and carry sufficient weight. *See State v. Matthew Kirk McWhorter*, No. M2003–01132–CCA–R3–CD, 2004 WL 1936389, at *46 (Tenn. Crim. App. Aug. 30, 2004), *perm. app. denied* (Tenn. Oct. 19, 2009) (concluding that consecutive sentences were appropriate even though “[n]o evidence was presented of any ‘residual, physical and mental damages to the victim’” when the other aggravating circumstances were all present). Accordingly, we conclude that there is no merit to this issue.

The stipulated facts in this case showed that the Defendant became the victim’s youth pastor when the victim was in the eighth or ninth grade, began private counseling sessions with the victim within the next year, communicated with her daily after she began dating his son, and then progressed to a sexual relationship with the victim that involved multiple sexual encounters over a two month time span in multiple locations. The Defendant’s exploitation of his years-long position as the victim’s church youth pastor and counselor to groom the victim into the sexual relationship justifies the trial court’s order of consecutive sentencing. We, therefore, affirm the sentencing imposed by the trial court.

CONCLUSION

Based on our review, we affirm the judgments of the trial court.

s/ JOHN W. CAMPBELL

JOHN W. CAMPBELL, SR., JUDGE