

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DESHAWN TOWNSEND,

Defendant-Appellant.

UNPUBLISHED

September 15, 2026

11:14 AM

No. 373287

Wayne Circuit Court

LC No. 23-002001-01-FC

Before: LETICA, P.J., and RICK and GARRETT, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of one count of kidnapping, MCL 750.349, two counts of first-degree criminal sexual conduct (CSC-I), MCL 750.520b (multiple variables), and one count of assault with a dangerous weapon (felonious assault). The facts underlying defendant’s convictions are not material to this appeal. As part of his sentence, the trial court ordered that defendant “[m]ust not reside, work, or loiter within a student safety zone defined as 1,000 feet of school property (developmental kindergarten through 12th grade school) unless you meet a statutory exemption.”¹ Defendant challenges inclusion of the student safety zone provision in this appeal by right and requests resentencing. On appeal, the prosecution agrees that this condition was impermissible, but requests that this Court remand to the trial court for entry of an amended judgment of sentence striking this condition, which is contained in the third sentence of Item 12 of defendant’s current judgment of sentence. We agree with the parties that the trial court lacked authority to include the student safety zone provision as a condition of defendant’s sentence, and we remand to the trial court for entry of an amended judgment of sentence removing it.

I. ISSUE PRESERVATION AND STANDARD OF REVIEW

Defendant did not preserve this issue for review by objecting at sentencing when the court imposed the condition. *People v Bowling*, 299 Mich App 552, 557; 830 NW2d 800 (2013). On

¹ The probation department recommended this as “Condition 01.6.”

appeal, a defendant is entitled to plain error review of an unpreserved sentencing issue. *People v Lockridge*, 498 Mich 358, 393; 870 NW2d 502 (2015). “To avoid forfeiture under the plain error rule, three requirements must be met: 1) error must have occurred, 2) the error was plain, i.e., clear or obvious, 3) and the plain error affected substantial rights.” *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999). “The third requirement generally requires a showing of prejudice,” which exists if the error affected the outcome. *Id.* Whether to grant appellate relief is within the reviewing court’s discretion, and “[r]eversal is warranted only when the plain, forfeited error resulted in the conviction of an actually innocent defendant or when an error seriously affect[ed] the fairness, integrity or public reputation of judicial proceedings independent of the defendant’s innocence.” *Id.* at 763-764 (quotation marks and citation omitted; second alteration in original).

II. DISCUSSION

“[T]he ultimate authority to provide for penalties for criminal offenses is constitutionally vested in the Legislature.” *People v Hegwood*, 465 Mich 432, 436; 636 NW2d 127 (2001). Thus, while trial courts are tasked with imposing sentences following a criminal conviction, the courts may do so “only *within the limits* set by the Legislature.” *Id.* at 436-437. Trial courts may not impose sentencing conditions not authorized by statute. See *People v Lafey*, ___ Mich App at ___, ___; ___ NW3d ___ (2024) (Docket No. 361936); slip op at 11-12 (concluding that sentencing condition drastically restricting the defendant’s contact with individuals outside the prison setting was not authorized by statute).

The Sex Offenders Registration Act (SORA), MCL 28.721 *et seq.*, went into effect in October 1995. *People v Betts*, 507 Mich 527, 533 & n 1; 968 NW2d 497 (2021). In 2006, amendments creating “exclusion zones” became effective, prohibiting registrants from living, working, or loitering within 1,000 feet of a school. *Id.* at 535. In 2021, SORA was significantly amended, and the student safety zone provisions were removed. See *People v Lymon*, 515 Mich 145, 154; 29 NW3d 58 (2024); *People v Kiczenski*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 364957); slip op at 11.

Defendant was sentenced in September 2024, years after the student safety zone provisions were repealed. The trial court therefore lacked statutory authority to impose this sentencing condition and it plainly erred. The trial court’s error also affected defendant’s substantial rights because it imposed a condition on defendant without lawful authority. See *Lafey*, ___ Mich App at ___; slip op at 11-13 (granting appellate relief in relation to unlawful sentencing condition, despite failure to preserve claim of error).

Defendant argues that the trial court’s error requires resentencing; however, he provides no authority to support that resentencing, rather than amending the judgment of sentence, is necessary. See *People v Payne*, 285 Mich App 181, 195; 774 NW2d 714 (2009) (“An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims, nor may he give only cursory treatment with little or no citation of supporting authority.”) (quotation marks and citation omitted). More importantly, defendant’s requested relief is not warranted in these circumstances. Admittedly, “[t]he traditional remedy employed by this Court for an invalid sentence imposed on the basis of a misconception of the law is resentencing.” *People v Thomas*, 223 Mich App 9, 12; 566 NW2d 13 (1997). But this Court has also held that resentencing is not required if the circumstances demonstrate that the trial court’s

misconception of the law would not have affected its discretionary determination regarding the length of the defendant's sentence. *Id.* at 13, citing *People v Kaczorowski*, 190 Mich App 165, 174; 475 NW2d 861 (1991). Here, the trial court's erroneous inclusion of the student safety zone condition after the statutory authority for that condition was repealed had no impact on the length of defendant's sentence, so the appropriate remedy is to remand for entry of an order removing the student safety zone condition from defendant's judgment of sentence. See *Lafey*, ___ Mich App at ___; slip op at 13 (remanding for removal of unlawful sentencing condition).

Remanded to the trial court for entry of an amended judgment of sentence that removes the student safety zone provision. We do not retain jurisdiction.

/s/ Anica Letica

/s/ Michelle M. Rick

/s/ Kristina Robinson Garrett