If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED November 06, 2026 9:40 AM
v	No. 375095 Berrien Circuit Court
JOHN HENRY LEWIS, Defendant-Appellant.	LC No. 2022-001714-FH

Before: YOUNG, P.J., and REDFORD and FEENEY, JJ.

PER CURIAM.

In March 2023, defendant, John Henry Lewis, was tried by a jury which convicted him in Count 1 of one count of delivery of methamphetamine, MCL 333.7401(2)(b)(*i*); and in Count 2 of one count of delivery of marijuana, MCL 333.7401(2)(d). On May 1, 2023, the trial court originally sentenced him as a fourth-offense habitual offender, MCL 769.12, and a drug supplemented offender to serve concurrent terms of 15 to 40 years' incarceration for the methamphetamine conviction and 2 to 8 years' incarceration for the marijuana conviction. Following correction of an error in the report of defendant's criminal history, on March 19, 2025, the trial court resentenced defendant to serve a concurrent term of 10 to 40 years for the methamphetamine conviction and 2 to 8 years for the marijuana conviction. Defendant now appeals only the sentence imposed and argues that his sentence was disproportionate and unreasonable. We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

This case arose out of a Berrien County Sheriff's Department drug trafficking investigation involving marijuana and methamphetamine and an individual named Torey Blackmore. On June 1, 2022, as part of Blackmore's drug operation, defendant delivered methamphetamine and marijuana directly to an undercover officer in exchange for money.

The Berrien County Prosecuting Attorney's Office charged defendant with one count delivery of methamphetamine and one count delivery of marijuana. The complaint and information provided notice that defendant was subject to an enhanced sentence under MCL 333.7413(2) because he was previously convicted of use of cocaine on March 13, 2007.

At trial, defendant claimed that Blackmore asked defendant if he wanted to make $20 in exchange for taking a package to a car. Defendant said that he "didn't know" that he was passing drugs. The jury returned guilty verdicts on both counts. The trial court sentenced defendant to serve concurrent terms of 15 to 40 years for the methamphetamine conviction and 2 to 8 years for the marijuana conviction.

Thereafter, defendant moved, in part, to correct an invalid sentence on the ground that his sentence was improperly enhanced because he was not convicted of using marijuana in 2007 and did not have a previous drug conviction. He also argued that he was entitled to resentencing because his sentence, near the top of the guidelines, was unreasonable and disproportionate. In response, the prosecution conceded that defendant was, in fact, not previously convicted of a drug offense and that he must be resentenced.

The parties subsequently reconvened for resentencing. Defense counsel argued that even a sentence within the bottom end of the guidelines range would be disproportionate because there was no evidence that defendant had previously trafficked drugs, defendant indicated that he did not know that he was delivering drugs, the amount of drugs was exceedingly small, and defendant had an exceptional prison record.

At resentencing, defendant's sentencing guidelines range for Count 1 was 72 to 240 months; and 10 to 46 months for Count 2. The statutory maximum for Count 1 was life imprisonment, and 15 years for Count 2. Defendant had 110 prior record variable points, including 75 points for three previous high severity felonies. Defendant had a total of 5 prior felonies and 18 prior misdemeanors.

Likewise at resentencing, the court had the benefit of having presided over the trial and the *Ginther* hearing, an updated presentence investigation report, an understanding of defendant's post original sentence good behavior while incarcerated, all other evidence of record, and the arguments of both counsel.

The trial court noted that there was "an unfortunate mistake made here" but also acknowledged that "it didn't change the guideline range at all." The court recognized that it was "taking this all anew" and that it "had the benefit of some court hearing, some briefing" in this case. The court then explained its resentencing as follows:

> I think I made some comments at the earlier sentencing and the observations remain the same. Just as to the general degradation of the community of Benton Harbor that takes place as a result of the—the drugs and the drug trafficking. I—the last murder trial I had was a 14 year old murderer. What he and his victim had in common they were heavy marijuana users, very heavy marijuana users. And they liked guns. And I said this when I—I chose under Miller v Alabama[1] not to sentence him to life in prison. I'm sorry [prosecutor] you were on that case.

[1] *Miller v Alabama*, 567 US 460; 132 S Ct 2455; 183 L Ed 2d 407 (2012).

* * *

> I didn't mean to bring it up but I—I was sympathetic to [the prosecutor]'s position requesting life without parole but I—I chose not to. And part of my thinking in that was that individual although it was a cold blooded, horrific, terrible, murder; was raised in the community that has 5 dispense—drug dispensaries in the downtown but not a single grocery store. And so although perhaps [defendant] wasn't—doesn't have dozens of drug convictions he's—he was part of that culture that's [led] to just a general degradation of that community. And it's—it's heartbreaking. It's heartbreaking for me to observe, my gosh, a 14 year old murderer and a 17 year old victim who's dead, gone forever from his family.
>
> Again, it's a completely separate case. I'm not attributing any of that to [defendant] I'm just commenting on the general malaise and—and the drug culture that exists in that community and the need as we say in most every felony sentencing, the purpose of the sentence is punishment, protection of the community, deterrence, reformation, and restitution.
>
> And the Court's role in trying to protect the public and make communities safer is—is important. But we had a significant reduction in the guideline range here so I think that resentencing some modification is—is appropriate and warranted under People v Posy [sic].[2] I—I think that the sentence the Court's going to impose is proportional.
>
> So accordingly, this is a guideline sentence. The purpose of this sentence is punishment, protection of the community, deterrence, reformation and restitution.

At the completion of the hearing, the trial court entered an order resentencing defendant as a fourth-offense habitual offender to serve a concurrent term of 10 to 40 years for the delivery of methamphetamine conviction and 2 to 8 years for the delivery of marijuana conviction. This sentence was a one-third reduction from the originally imposed sentence.[3]

Defendant now appeals.

II. STANDARD OF REVIEW

"Sentencing decisions are reviewed for an abuse of discretion." *People v Boykin*, 510 Mich 171, 182; 987 NW2d 58 (2022). "An abuse-of-discretion standard recognizes that there may be

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[2] *People v Posey*, 512 Mich 317; 1 NW3d 101 (2023) (opinion by BOLDEN, J.).

[3] We note the original sentence imposed was a minimum term of 15 years. This term of years was within the subsequently recalculated sentencing guidelines, meaning a sentence that was exactly the same as originally imposed would have been presumptively proportionate under *Posey*. The court, though, reduced the sentence by a full one-third.

more than one principled outcome and the trial court may not deviate from that" range of principled outcomes. *Id*. A trial court abuses its discretion by violating the "principle of proportionality," which requires that a sentence be proportionate to the seriousness of the offense and the circumstances of the offender. *People v Steanhouse*, 500 Mich 453, 459-460; 902 NW2d 327 (2017). See also *Graham v Florida*, 560 US 48, 59; 130 S Ct 2011; 176 L Ed 2d 825 (2010).

III. ANALYSIS

Defendant argues that his sentence was unreasonable and disproportionate to the seriousness of the offense and the circumstances of the offender. We disagree.

"A trial court must articulate its reasons for imposing a sentence on the record at the time of sentencing." *People v Conley*, 270 Mich App 301, 312; 715 NW2d 377 (2006). A trial court's clear reliance on the sentencing guidelines supports that the articulation requirement was satisfied. *Id*. at 313. "When a trial court sentences a defendant within the guidelines' recommended range, it creates a presumption that the sentence is proportionate." *People v Posey*, 512 Mich 317, 360; 1 NW3d 101 (2023) (opinion by BOLDEN, J.). To overcome that presumption, "the defendant bears the burden of demonstrating that their within-guidelines sentence is unreasonable or disproportionate[.]" *Id*. at 359.

Factors that may be considered by a trial court under the proportionality standard include, but are not limited to:

> (1) the seriousness of the offense; (2) factors that were inadequately considered by the guidelines; and (3) factors not considered by the guidelines, such as the relationship between the victim and the aggressor, the defendant's misconduct while in custody, the defendant's expressions of remorse, and the defendant's potential for rehabilitation. [*People v Lampe*, 327 Mich App 104, 126; 933 NW2d 314 (2019) (citation omitted).]

A defendant may overcome the presumptive proportionality of a within-guidelines sentence by "present[ing] unusual circumstances that would render the presumptively proportionate sentence disproportionate." *People v Bowling*, 299 Mich App 552, 558; 830 NW2d 800 (2013) (quotation marks and citation omitted). "Unusual" means "uncommon, not usual, rare." *People v Sharp*, 192 Mich App 501, 505; 481 NW2d 773 (1992) (quotation marks, brackets, and citation omitted).

Even though defendant contends that the trial court failed to meaningfully engage with the individual facts of this case, the record reflects otherwise. The trial court's reliance on the sentencing guidelines satisfied the articulation requirement. See *Conley*, 270 Mich App at 313. Moreover, although defendant argues that his institutional record, articulation of remorse, and comparative culpability are unusual, he fails to articulate this argument further and fails to establish unusual circumstances that would have rendered his presumptively proportionate sentence disproportionate. See *Bowling*, 299 Mich App at 558. The trial court allowed defendant a chance to speak at sentencing and at resentencing. Defendant chose not to speak at his original sentencing but spoke on his own behalf during resentencing. Defendant's comments at resentencing support that the trial court considered his conduct while in custody and his expression of remorse. See *Lampe*, 327 Mich App at 126. Nonetheless, we defer to the trial court when considering any

weight or credibility given to defendant's testimony. See *People v Ziegler*, 343 Mich App 406, 411; 997 NW2d 493 (2022).

The trial court's comments at resentencing demonstrate that it thoroughly considered the circumstances of the offense and the applicable guidelines range to determine an appropriate penalty. The trial court explicitly stated that it was considering the matter anew given that defendant erroneously had a cocaine conviction attributed to him. The court reviewed briefs, considered the seriousness of the offense, and highlighted the judiciary's role in protecting the public and community. Even though the trial court made side comments about a "separate case," the court also said that it was "not attributing any of that to [defendant]" and made clear that it was "just commenting on the general malaise" and drug culture in Benton Harbor. Recognizing that drug culture and drug trafficking contributed to "the general degradation of the community," the trial court stressed that the purpose of imposing its within-guidelines sentence was punishment, protection of the community, deterrence, reformation, and restitution.

IV. CONCLUSION

Defendant fails to overcome the presumption that his within-guidelines sentence is proportionate. Consequently, we conclude that the trial court did not abuse its discretion by sentencing defendant to a proportionate and reasonable within-guidelines sentence.

Affirmed.

/s/ Adrienne N. Young
/s/ James Robert Redford
/s/ Kathleen A. Feeney

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YOUNG, P.J., (*concurring*).

I agree with the majority that the trial court did not abuse its discretion in sentencing Mr. Lewis. I write separately to highlight what I identify as a tension between discussions about public safety and individualizing a sentence to the offense and the offender. To be clear, public safety or "the protection of society" has long been considered an appropriate consideration at sentencing. *People v Snow*, 386 Mich 586, 592; 194 NW2d 314 (1972). This case exemplifies how a trial court's consideration of societal "malaise" can at least appear to move the trial court away from a sentence that is sufficiently individualized.

The majority includes the relevant portion of the sentencing transcript in full, but it is worth revisiting the following:

> I think I made some comments at the earlier sentencing and the observations remain the same. Just as to the general degradation of the community of Benton Harbor that takes place as a result of the—the drugs and the drug trafficking. I—the last murder trial I had was a 14 year old murderer. What he and his victim had in common they were heavy marijuana users, very heavy marijuana users. And they liked guns. And I said this when I—I chose under Miller v Alabama[1] not to sentence him to life in prison. I'm sorry [prosecutor] you were on that case.

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> I didn't mean to bring it up but I—I was sympathetic to [the prosecutor]'s position requesting life without parole but I—I chose not to. And part of my thinking in that was that individual although it was a cold blooded, horrific, terrible, murder; was raised in the community that has 5 dispense—drug dispensaries in the downtown but not a single grocery store. And so although perhaps [defendant] wasn't—doesn't have dozens of drug convictions he's—he was part of that culture that's lead to just a general degradation of that community. And it's—it's heartbreaking. It's heartbreaking for me to observe, my gosh, a 14 year old [sic] murderer and a 17 year old [sic] victim who's dead, gone forever from his family.
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> Again, it's a completely separate case. I'm not attributing any of that to [defendant] I'm just commenting on the general malaise and—and the drug culture that exists in that community and the need as we say in most every felony sentencing, the purpose of the sentence is punishment, protection of the community, deterrence, reformation, and restitution.

This Court is required to consider "the totality of the sentencing proceedings." *People v Munson*, 109 Mich App 39, 41-42; 310 NW2d 810 (1981). Articulating a rationale for a sentence "aid[s] appellate review and avoid[s] injustice on the basis of error at sentencing." *People v Conley*, 270 Mich App 301, 312-13; 715 NW2d 377 (2006). So even if "just commenting," the above discussion is part of the record. The above excerpt would be less concerning to me if, for example, there were a link between the marijuana smoked by the teenagers convicted of murder and the marijuana Lewis was dealing. But there is not. When, as here, the trial court's articulation at a sentencing includes a discussion of unrelated persons and their (more) grievous criminal actions, it is possible that the delicate balance between consideration of public safety and individualizing the sentence to the offense and offender has been compromised.[2]

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[2] It is worth noting too the unique circumstances of Lewis' sentencing. This was Lewis' second time being sentenced. At his first sentencing, his guidelines were improperly enhanced based on a drug conviction that was not actually part of Lewis' record. The trial court had this to say:

> The reason for the resentence was that Mr. Lewis was sentenced with a supplemental enhancement drug enhancement, as a second offender. And by looking through the file, the records, and pulling the old conviction it was determined that he was not convicted of a drug offense . . . . It was a different Mr. Lewis.

Lewis was granted resentencing because he was sentenced based on inaccurate information; at his first sentencing, he was held to account for someone else's criminal actions. Now, at his resentencing, he is again associated with someone else's criminal actions—although this time it is not a drug offense; it is an unrelated first-degree murder. So, at least on the individual level it is

However, both before and after the trial court detailed the circumstances of the unrelated first-degree murder, the trial court said that it was "not attributing any of that to Mr. Lewis." And again like in *Munson*, Lewis was permitted to speak at length concerning his own rehabilitation; the court considered a presentence report and a thorough mitigation report; and the resultant sentences were not only within the guidelines but several years less than the controlling sentence originally imposed. *Id*. Could another judge have given greater weight to Lewis' lack of prior drug convictions, that the "quantity of drugs delivered was very small," and Lewis' progress while incarcerated, to arrive at a lower sentence? Yes. But that is what the abuse of discretion standard contemplates—more than one reasonable outcome. *People v Babcock*, 469 Mich 247, 269; 666 NW2d 231 (2003). So, ultimately, I agree with my colleagues in the majority that the trial court did not abuse its discretion by sentencing Lewis to a proportionate and reasonable within-guidelines sentence. I write separately, though, in hopes of getting some guidance from the Michigan Supreme Court for our trial courts that are tasked with individualizing sentences in the face of massive societal ills that relate directly to public health and safety.

/s/ Adrienne N. Young

possible that the public safety considerations are lost in Lewis' "double whammy" of being held to account for grievous harms he did not commit.