No. 24-CO-321

ORAL ARGUMENT SCHEDULED FOR NOVEMBER 13, 2024

DISTRICT OF COLUMBIA COURT OF APPEALS

RILEY S. WALLS,

Appellant,

v.

UNITED STATES,

Appellee.

Appeal from the District of Columbia Superior Court
Criminal Division, Felony Branch

APPELLANT RILEY S. WALLS'S REPLY BRIEF

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES: **Page(s)**

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*Cases and other authorities chiefly relied upon are marked with asterisks (*).

TABLE OF AUTHORITIES (Continued)

CASES (Continued): **Page(s)**

TABLE OF AUTHORITIES (Continued)

OTHER AUTHORITIES: **Page(s)**

Appellant Riley S. Walls, through his undersigned counsel, respectfully submits this Reply Brief to the Brief filed by the United States in this case. This Reply Brief addresses two arguments contained in the Government's Brief that misinterpret the provisions of the Incarceration Reduction Amendment Act ("IRAA"), D.C. Code § 24-403.03:

(1) The government argues that the trial court did not abuse its discretion when, after concluding that Mr. Walls "has met his burden of establishing that he is no longer a danger to society," and that a reduction of his sentence was "in the interests of justice," then ordered his continued incarceration because he "would benefit from further time and supervision within the correctional system," without explaining how he "would benefit" from continued incarceration, or how his further incarceration would further the goals of IRAA, or how a reduced sentence but not immediate release from prison was supported by the record in this case.

(2) The government also argues that the trial court did not impose an illegal sentence when it resentenced Mr. Logan to a term of 20 years to life for first-degree murder while armed pursuant to IRAA, even though IRAA explicitly states that when a maximum sentence of life imprisonment is imposed pursuant to IRAA, then the minimum sentence

shall be no more than 15 years. The language of IRAA makes clear that the statute takes precedence over the mandatory minimum sentences otherwise imposed by D.C. sentencing laws, as applied to qualifying juvenile offenders

Both of the arguments contained in the government's brief are incorrect.

I. The Trial Court Abused its Discretion When, After Concluding that Mr. Walls is "No Longer A Danger to Society" and it was "In the Interest of Justice" to Reduce His Sentence, then Ordered His Continued Incarceration on the Ground that He "Would Benefit From Further Time and Supervision Within the Correctional System"

The trial court concluded in its final order that Mr. Walls was entitled to a reduction of his original sentence of 30-years to life for first-degree murder while armed, imposed in 1997, to a reduced sentence pursuant to the IRAA of 20-years to life imprisonment for first-degree murder while armed.[1] The trial court

[1] Mr. Walls's original sentence included consecutive terms of imprisonment of 10-30 years for assault with intent to kill while armed and 5-15 years for possession of a firearm during a crime of violence, for a total of 45 years to life in prison. The trial court order resentencing Mr. Walls pursuant to IRAA did not change the 10-30 years consecutive sentence for assault with intent to kill while armed or the 5–15-year consecutive sentence for possession of a firearm during a crime of violence. By reducing Mr. Walls's sentence for first degree murder while armed from a 30-year minimum sentence to a 20-year minimum sentence pursuant to IRAA, the trial court reduced Mr. Walls's aggregate sentence from 45 years to life imprisonment to a sentence of 35 years to life imprisonment.

concluded that that Mr. Walls "has met his burden of establishing that he is no longer a danger to society," and that a reduction of his sentence was "in the interests of justice," but then ordered his continued incarceration because he "would benefit from further time and supervision within the correctional system" after serving more than 27 years, without explaining how he "would benefit" from further incarceration, or how his further incarceration would further the goals of IRAA, or how a reduced sentence but not immediate release from prison was supported by the record before the trial court.

The government argues in its brief that the trial court did not abuse its discretion in granting Mr. Walls partial relief, reducing his sentence but not ordering his immediate release from prison. Gov. Br. at 18-25. While this Court will generally apply the abuse of discretion standard to review of denials of IRAA motions, *Bailey v. United States,* 251 A.3d 724, 732 (D.C. 2021), this Court has repeatedly held that a trial court must explain its reasoning "in sufficient detail to permit appellate review." *Cruz v. United States,* 165 A.3d 290, 294 (D.C. 2017). *See also Johnson v. United States*, 398 A.2d 354, 364 (D.C. 1979) ("[A] trial court's action is an abuse of discretion if no valid reason is given or can be discerned for it.") (citations omitted). *See also* Bishop *v. United States*, 310 A.3d 629 (D.C. 2024):

> We review the denial of an IRAA motion for abuse of discretion, *Williams v. United States*, 205 A.3d 837, 848 (D.C. 2019)…. In reviewing for abuse of discretion, we "must determine whether the decision maker failed to consider a relevant factor, whether [the decision maker] relied upon an improper factor, **and whether the reasons given reasonably support the conclusion**." *Crater v. Oliver*, 201 A.3d 582, 584 (D.C. 2019) (internal quotation marks omitted). **The trial court must make "[a]n informed choice ... drawn from a firm factual foundation**." *Brooks v. United States*, 993 A.2d 1090, 1093 (D.C. 2010) (first alteration in original) (internal quotation marks omitted).

310 A.3d at 641 (emphasis added).

This Court has emphasized that there is an "important trade-off for giving the trial court such latitude" under the abuse of discretion standard: the trial court "must take no shortcuts; it must exercise its discretion with reference to all the necessary criteria." *Ibn-Thomas v. United States*, 407 A.2d 626, 635 (D.C. 1979).

There have been two very recent 2024 decisions by this Court that have reversed and remanded trial court decisions denying relief under the IRAA because the trial courts failed to adequately explain the bases for their decisions. In *Long v. United States*, 312 A.3d 1247 (D.C. 2024), this Court stated:

> The trial court's explanation does not specify whether it denied Mr. Long's [IRAA] motion because it found Mr. Long dangerous or because the interests of justice weigh against a reduced sentence. Although its concluding passage makes certain findings, we are unable to discern whether the court concluded that Mr. Long had not "met his burden" with respect to dangerousness, the interests of

> justice, or both. **Without the trial court's express view on either of these inquiries (and the reasons supporting its view), we cannot determine whether its rationale for denying the motion is sufficient**. *See Bishop*, 310 A.3d at 637 ("[T]o ensure this court's ability to adequately review its decision, the trial court must make clear in [its] written opinion how the statutory factors informed its determinations regarding dangerousness and the interests of justice."). **A trial court's failure to explain such a nonobvious exercise of discretion generally requires a remand, particularly when it prevents adequate appellate review of the basis of its holding.**

312 A.3d at 1269 (emphasis added) (citation and footnote omitted).

Similarly, in *Henny v. United States*, 321 A.3d 621 (D.C. 2024), this Court reversed and remanded the denial of an IRAA motion because the trial court did not adequately explain the basis for its decision, particularly its seeming rejection of the testimony of Mr. Baird, an expert witness who testified concerning the defendant's prison disciplinary history:

> But even if we could further conclude that the trial court implicitly rejected Baird's testimony, we view that testimony as so critical to the issues before us that we need to understand the trial court's reasons for doing so before we can meaningfully review its ruling. The **trial court's "failure to make sufficient findings**—including findings on the weight given to [an expert]'s testimony"—can itself be "error [that] requires a remand." *A.C. v. N.W.*, 160 A.3d 509, 518 n.13 (D.C. 2017). And here, given the seeming importance of Baird's testimony to the trial court's central concern, we lack "sufficient detail to permit appellate review" without some explanation as to why the court rejected Baird's findings. *Long v. United States*, 312 A.3d 1247, 1270 (D.C. 2024) (quoting *Cruz v. United States, supra*, 165 A.3d at 294)).

321 A.3d at 631-32 (emphasis added) (footnote omitted).

Similarly, in Mr. Walls's case, the trial court gave no reasons or supporting justification for reducing Mr. Walls's sentence but not immediately releasing him, except to say that he "would benefit from further time and supervision within the correctional system." This brief, opaque statement was insufficient to explain and justify the basis for the trial court's decision.

Just like the two recent cases quoted above, *Long and Henny*, where this Court remanded to the trial courts the denials of relief pursuant to IRRA because the trial courts did not adequately explain the bases for their decisions, Mr. Walls's case must also be reversed and remanded for an adequate explanation of the basis for the trial court's decision to reduce Mr. Walls's sentence but not order his immediate release. The trial court in this case, after concluding that Mr. Walls "has met his burden of establishing that he is no longer a danger to society," and that a reduction of his sentence was "in the interests of justice," then ordered his continued incarceration primarily because he "would benefit from further time and supervision within the correctional system," without explaining how he "would benefit" from further incarceration, how his further incarceration would further the goals of IRAA, and how a reduced sentence but not immediate release from prison was supported by the record before the trial court.

The key point here is that the trial court found that Mr. Walls was no longer dangerous because the single recent incident of concern -– a stabbing incident --

occurred six years ago. Yet, the trial court did not provide any reason to continue to hold Mr. Walls in prison. A trial court may well find that a very recent incident or incidents suggests that a defendant poses danger, but once a trial court has found that the incident is sufficiently remote and the inmate has made significant efforts at rehabilitation, it must either release the inmate or provide an adequate explanation of why release is not ordered. Certainly, the trial court cited no specific programs which Mr. Walls was taking or could take in prison that might rehabilitate him further. The trial court's decision notes that Mr. Walls has already taken substantial educational and rehabilitative courses in prison: "While incarcerated, Defendant successfully completed over 1,500 hours of educational and rehabilitative programs, including courses in anger management, stress management, non-violent communication, and outpatient drug treatment." Final Order at 10.

The government argues in its brief that it would have been "helpful" but not "required" for the trial court in this case to have provided an explanation of why it decided to reduce Mr. Walls's sentence but not order his immediate release from prison. Gov. Br. at 25. In *Long and Henny, supra,* this Court rejected that argument and **required** trial courts resentencing defendants pursuant to IRAA to explain the bases for their decisions in sufficient detail to allow appellate review. *Long*, 312 A.3d at 1269; *Henny*, Slip Op. at 20.

The government's brief also argues that "unlike the trial court's disposition of a defendant's IRAA eligibility, its discretionary sentencing decision is beyond appellate review." Gov. Br. at 25. This argument is incorrect for two reasons. First, a defendant's eligibility for IRAA relief is statutorily defined as whether the defendant was younger than 25 years old when he or she committed the offense and whether the defendant has served more than 15 years for the offense. Those are the two eligibility requirements for seeking relief under the IRAA. The remaining criteria go to the judge's discretionary judgments as to whether to grant a reduction in sentence, including immediate release. Second, this Court's cases make clear that the trial court's discretionary decisions in considering a reduction of sentence under the IRAA are subject to review in this Court for abuse. *See Long and Henny, supra, Long*, 312 A.3d at 1269; *Henny*, Slip Op. at 20.

Another recent 2024 decision by this Court makes this point absolutely clear as applied to the trial court's decision to reduce a sentence under IRAA but not order the defendant's immediate release. *Welch v. United States*, 319 A.3d 971 (D.C. 2024), involved a situation similar to this case where the trial court granted partial relief under IRAA, reducing the defendant's sentence but not ordering his immediate release. On appeal to this Court, the defendant argued that the trial court had abused its discretion by granting only a sentence reduction but not ordering his immediate release. The U.S. Attorney's Office did not argue that the

trial court's decision was immune from judicial review, as it does in this appeal, but instead argued that the trial court did not abuse its discretion in making its discretionary resentencing decision. This Court agreed, reviewing the merits of the trial court's decision under the abuse of discretion standard:

> [T]he trial court here provided **detailed record-based reasoning for its conclusion** that Mr. Welch's level of rehabilitation warranted a sentence reduction rather than immediate release.

319 A.3d at 976 n.3 (emphasis added).

This case should be remanded to the trial court for a detailed explanation of its reasons for ordering a reduction in Mr. Walls's sentence but not his immediate release from prison. If the trial court cannot provide such a detailed explanation, based on the record, the trial court, which found that Mr. Walls "has met his burden of establishing that he is no longer a danger to society," and that a reduction of his sentence was "in the interests of justice," should then order his immediate release from prison.

II. The Trial Court Imposed an Illegal Sentence When It Resentenced Mr. Walls to 20 Years to Life Imprisonment For First-Degree Murder While Armed

The trial court's final order in this case ordered that Mr. Walls be resentenced pursuant to the IRAA. Mr. Wall's had originally been sentenced by Judge Harold Cushenberry in 1997 to a prison term of 30-years to life for first-degree murder while armed. District of Columbia law provided at that time, and

still requires today, that a conviction for first-degree murder shall have a mandatory minimum sentence of 30 years in prison. D.C. Code § 22-2104. The trial court ordered that Mr. Walls's sentence be reduced under IRAA from 30-years to life to 20-years to life.

This is an illegal sentence because IRAA explicitly states that: "Any defendant whose sentence is reduced under this section shall be resentenced pursuant to § 24-403, § 24-403.01, or § 24-903, as applicable." The applicable statute is § 24-403, entitled "Indeterminate sentences; life sentences; minimum sentences." Section 24-403(a) states in pertinent part:

> Where the maximum sentence imposed is life imprisonment, a minimum sentence shall be imposed which shall not exceed 15 years imprisonment.[2]

Despite this clear language contained in § 24-493 that mandates a 15-year minimum sentence, the government argues in its brief that the 20-years to life sentence imposed on Mr. Walls was lawful, citing *Bryant v. Civiletti*, 663 F.2d 286 (D.C. Cir. 1981). The government's reliance on *Bryant* is misplaced because it ignores both the clear langue of the D.C. Code's sentencing statute (§ 24-403) and the clear purpose the District of Columbia Council manifested in adopting IRAA.

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[2] § 24-403.01involves suspended sentences and certain maximum sentences; § 24-903 involves sentencing alternatives for youthful offenders.

Bryant involved a petition for writ of habeas corpus filed *pro se* in the U.S. District Court for the District of Columbia by a D.C. prisoner, and then appealed *pro se* to the U.S. Court of Appeals for the D.C. Circuit. The petitioner had been sentenced to two consecutive life sentences for two first-degree murders, and to additional prison time for other offenses. 633 F.2d at 288. Among the arguments made by the prisoner in the district and circuit courts was that the minimum sentences that should have been imposed on him for first-degree murder were 15 years, pursuant to D.C. Code § 24-203, the District of Columbia's general sentencing statute that provided that "where the maximum sentence imposed is life imprisonment, a minimum sentence shall be imposed which shall not exceed fifteen years."

The D. C. Circuit pointed out that in addition to this general sentencing statute, D.C. had at that time a special sentencing statute for first-degree murder (which no longer exists) that provided that "notwithstanding any other provision of law" the penalty for first-degree murder shall be life imprisonment and the individual convicted of first-degree murder "shall not be eligible for parole until the expiration of 20 years." D.C. Code § 22-2404. The *Bryant* court, not surprisingly, held that the special first-degree murder penalty statute prevailed over the general felony sentencing statute. 633 F.2d at 292. The court cited to the language contained in the first-degree sentencing statute

"notwithstanding any other provision of law," and the familiar rule of statutory construction that a special sentencing law will prevail over a general sentencing law that applies to offenses broadly. *Id.*, citing *Simpson v. United States*, 435 U.S. 6 (1978), and additional cases.

The conclusion reached by the court in *Bryant* obviously reflected the legislative intent to give a mandatory 20 years in prison for first-degree murder but no more than 15 years for other felonies where a maximum sentence of life imprisonment was imposed.

The IRAA presents a very different situation. This statute was originally passed in 2016 (effective April 4, 2017), and amended by the Second Look Amendment Act (effective April 27, 2021).[3] It was intended and designed to allow judges to modify sentences previously imposed on juveniles, including sentences with mandatory minimum provisions, like first- and second-degree

[3] The Incarceration Reduction Amendment Act, D.C. Law 21-238, §§ 301-06, 63 D.C. Reg. 15312, 15319-22 (effective April 4, 2017), amended by the Second Look Amendment Act, D.C. Law 23-568, B23-0127 (effective April 27, 2021). To qualify for a sentence reduction, the juvenile must have served at least 15 years in prison. The original statute applied to juveniles who committed their offenses before the age of 18; the amended statute extended the provisions of the act to persons who committed the offense before the age of 25. The amended statute also changed the language of the statute originally directing that judges "may" modify sentences if the defendant has shown that he or she is no (footnote continued) longer a danger and modification was in the interests of justice, to language directing that the judge "shall" modify the sentence is the defendant meets the specified showings.

murder, under prior sentencing laws. As this Court explained in *Bishop v. United States*, *supra,* 310 A.3d at 634-35:

> Originally passed by the District of Columbia Council in 2016, the IRAA "establishes a sentence review procedure intended to ... ensur[e] that all juvenile offenders serving lengthy prison terms have a realistic, meaningful opportunity to obtain release based on their diminished culpability and their maturation and rehabilitation." *Williams v. United States*, 205 A.3d 837, 846 (D.C. 2019). The function of the IRAA is to provide a "second look" at lengthy prison sentences for individuals convicted of offenses they committed before the age of twenty-five. Comm. on the Judiciary and Pub. Safety, Rep. on B23-0127, the "Omnibus Public Safety and Justice Amendment Act of 2020" at 18 (Nov. 23, 2020) ("2020 Committee Report").

The language of the IRAA makes clear that the statute takes precedence over the mandatory minimum sentences otherwise imposed by D.C. sentencing laws, as applied to qualifying juvenile offenders.[4] The IRAA authorizes judges to re-sentence qualifying individuals to lesser sentences, or order their immediate release from prison, before the expiration of the mandatory minimum sentences originally imposed on them have been served. The clear language of IRAA specifies that if the sentencing judge re-imposes a life sentence under IRAA's provisions, then the minimum sentence that the judge can impose can be no more than 15 years, not the 20 years imposed by the trial court in this case. The unambiguous language of

[4] The penalty for first-degree murder at the time that Bryant committed his offense was mandatory life imprisonment, with parole eligibility after serving 20 years, D.C. Code § 22-2404; the current penalty for first-degree murder is up to life imprisonment, with parole eligibility after serving 30 years. D.C. Code § 22-2104.

IRAA mandates this result. "When the plain meaning of the statutory language is unambiguous, the intent of the legislature is clear, and judicial inquiry need go no further." *District of Columbia v. Gallagher*, 734 A.2d 1087, 1091 (D.C. 1999) (internal quotation marks omitted). *See also*, *Solon v. United States*, 196 A.3d 1283, 1287 (D.C. 2018) (same); *Brownlee v. District of Columbia Dep't of Health*, 978 A.2d 1244, 1249 n.8 (D.C. 2009) (same).

The government's brief points out that if IRAA dictates that all defendants resentenced pursuant to its provisions to a maximum of life imprisonment must receive a minimum sentence of not more that 15 years (as IRAA specifies), and to qualify for resentencing under IRAA the juvenile must have served at least 15 years, then all defendants who are resentenced under IRAA to life imprisonment would be immediately eligible for parole. Gov. Br. at 31 n. 6. But that is exactly the way the D.C. Counsel wrote the law. If the U.S. Attorney's office is dissatisfied with that result, clearly mandated by the statutory language, the remedy is not to urge this Court to adopt a result in this case clearly contradicted by the statutory language in IRAA, but to lobby the D.C. Council to amend the law. The U.S. Attorney's office is free to so advocate to the D.C. Council if it wishes to do so.

The 20-year minimum sentence imposed by Judge Pasichow in resentencing Mr. Walls pursuant to IRAA for first-degree murder while armed was illegal. This

Court should remand the case with instructions to revise the sentence imposed on Mr. Walls for first-degree murder to be 15 years to life imprisonment, unless the trial court orders Mr. Walls to be immediately released in accordance with the first argument made in this Reply Brief. *See Lopez-Ramirez v. United States*, 171 A.3d 169, 177 (D.C. 2017) (remanding case to correct sentence); *Dobson v. United States*, 449 A.2d 1082, 1083 (D.C. 1982) (same).

CONCLUSION

WHEREFORE, for all the reasons set forth above and in Mr. Wall's Motion for Summary Reversal, this case should be remanded to the trial court for a detailed explanation of its reasons for ordering a reduction in Mr. Walls's sentence but not his immediate release from prison in light of the trial court's findings that Mr. Walls "has met his burden of establishing that he is no longer a danger to society," and that a reduction of his sentence was "in the interests of justice." If the trial court cannot provide such a detailed explanation, based on the record, the trial should then order his immediate release from prison.

If the trial court does not order Mr. Walls's immediate release from prison, it shall reduce the sentence the trial court previously imposed on him of 20-years to life imprisonment for first degree murder while armed to a legally valid sentence of 15-years to life imprisonment for that offense.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Brief for Appellant was served electronically on the office of counsel for Appellee, Chrisellen R. Kolb, Esquire, Appellate Division, U.S. Attorney's Office this 18th day of October 2024.

/S/Peter H. Meyers
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