BRIEF FOR APPELLEE

DISTRICT OF COLUMBIA
COURT OF APPEALS

No. 24-CO-321

RILEY WALLS, Appellant,

v.

UNITED STATES OF AMERICA, Appellee.

APPEAL FROM THE SUPERIOR COURT
OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION

Cr. No. 1994-FEL-1788

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ISSUE PRESENTED

Whether the trial court abused its discretion when it granted appellant Riley Walls's motion for a sentence reduction under the Incarceration Reduction Amendment Act (IRAA) and reduced his sentence but did not order immediate release, where:

(A) the court resolved IRAA Factor 10 in Walls's favor by finding without qualification that his young age weighed in favor of a sentencing reduction and acknowledging his maturation process in prison;

(B) the IRAA does not require an inmate's immediate release and expressly contemplates resentencing to an indeterminate life sentence with an earlier parole-eligibility date, and the court gave all the explanation that was required for the resentencing; and

(C) the reduction of Walls's sentence for first-degree murder while armed from 30 years to life to 20 years to life is explicitly permitted by the IRAA and the homicide sentencing regime it incorporates by reference.

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COUNTERSTATEMENT OF THE CASE

On April 7, 1997, following a trial before the Honorable Harold J. Cushenberry, a jury found appellant Riley Walls guilty of one count of first-degree murder while armed, in violation of D.C. Code §§ 22–2401, 3202; one count of assault with intent to kill while armed (AWIKWA), in violation of D.C. Code §§ 22–501, 3202; and one count of possession of a firearm during a crime of violence (PFCOV), in violation of D.C. Code § 22–3204(b) (Record on Appeal (R.) 64 (PDF) (Docket p. 6)).

On October 24, 1997, Judge Cushenberry sentenced Walls to consecutive prison terms totaling 45 years to life: 30 years to life for first-degree murder while armed; 10 to 30 years for AWIKWA; and five to 15 years for PFCOV (R. 65 (PDF) (Docket p. 7); 10/24/97 Transcript (Tr.) 12). Walls appealed his convictions, which were affirmed by this Court. *Walls v. United States*, 773 A.2d 424 (D.C. 2001). Walls filed a petition for a writ of certiorari, which the Supreme Court denied. *Walls v. United States*, 534 U.S. 1149 (2002).

On May 22, 2007, Walls filed a motion under D.C. Code § 23–110 collaterally attacking his conviction (R. 48 (PDF) (Docket p. 15)). Judge Cushenberry denied the motion on July 27, 2007 (*id.* at 49 (PDF) (Docket p. 16)). Walls filed a motion to correct his sentence on September 13, 2010, which Judge Cushenberry also denied (*id.* at 49–50 (PDF) (Docket pp. 16–17)). On January 13, 2020, Walls filed his first motion for a reduction of sentence under the Incarceration Reduction Amendment Act (IRAA), proceeding pro se (*id.* at 67 (PDF) (Mot.)). On January 17, 2020, the Honorable Ronna L. Beck denied the motion because Walls was too old at the time of the offense to be eligible for relief under the statute (*id.* at 73 (PDF) (Order)).

On May 27, 2021, Walls filed a second pro se IRAA motion seeking his immediate release following the D.C. Council's amendment to the statutory eligibility criteria (R. 75 (PDF) (Mot.)). On September 17, 2021, the Honorable Heidi M. Pasichow appointed counsel to assist Walls with his IRAA application (*id.* at 80 (PDF) (Order)). On December 5, 2022, Walls, with the assistance of counsel, filed a supplement to his IRAA application (*id.* at 102 (PDF) (Supp. Motion)). On January 24, 2023, the government filed a brief opposing any reduction to Walls's sentence under the IRAA (*id.* at 197 (PDF) (Opp. Br.)). Walls filed a reply (*id.* at 270 (PDF) (Reply Br.)). On September 22, 2023, the court held an evidentiary hearing on Walls's motion (9/22/23 Tr.). On March 28, 2024, Judge Pasichow issued a written order finding Walls eligible for a sentencing reduction and reducing his sentence for first-degree murder while armed from 30 years to life to 20 years to life (Appellant's Appendix (App'x) 19–20 (Order)). Three days later, Walls noted a timely appeal (R. 318 (PDF) (Notice of Appeal)).

The Trial

In the early morning hours of August 9, 1992, Walls, accompanied by his friend Micah Bryan, encountered 14-year-old Jesse Moore and 16-

year-old Ramon Cherry at the entrance of an apartment building. *See Walls*, 773 A.2d at 426–29. Moore and Cherry, who knew Bryan but not Walls, asked Bryan about Walls's presence in the neighborhood. *See id.* Walls took offense to the questions. *See id.* Moore and Cherry walked away. *See id.* Walls drew a nine-millimeter semi-automatic handgun from the front of his pants and fired between 10 to 12 shots at Moore and Cherry as they ran away. *See id.* Walls fatally wounded Moore in his back. *See id.* He shot and injured Cherry's right foot. *See id.* Walls then got into his car and exclaimed that Moore and Cherry "shouldn't disrespect me." *See id.* Cherry initially provided a fake description of the shooter to police but eventually identified Walls by name and identified him in a photo array as the assailant. *See id.*

Defendant's Second IRAA Application

In his second IRAA motion, Walls argued that he was no longer a danger to the community and that the interests of justice warranted a reduction to his sentence (R. 102–32 (PDF) (Supp. Mot.)). His motion emphasized his youth at the time of the murder, described a difficult childhood, and expressed remorse for his actions (*id.* at 103–20, 129–31 (PDF) (Supp. Mot. pp. 1–19, 28–30)). It noted his rehabilitative efforts

while incarcerated, including completion of a GED and a drug treatment program (*id.* at 123–26, 132 (PDF) (Supp. Mot. pp. 22–25, 31)). And it presented a proposed reentry plan with familial support (*id.* at 126–28 (PDF) (Supp. Mot. pp. 25–27)). Walls also attached a report from Maureen Baird, a purported expert on prison management, practices, and inmate adjustment (*id.* at 174–96 (PDF) (Supp. Mot. App'x 8)); a personal letter to the judge (*id.* at 164–70 (PDF) (Supp. Mot. App'x 7)); and several other letters in support of his application (*id.* at 139–54 (PDF) (Supp. Mot. App'x 3)).

The Government's Opposition

The government opposed any reduction to Walls's sentence (R. 197–213 (PDF) (Opp. Br.)). The government's opposition detailed Walls's 47 violations of prison rules during his incarceration, including seven infractions classified within the Bureau of Prisons' most serious offense categories (*id.* at 206–08 (PDF) (Opp. Br. pp. 10–12)). Of those infractions, the government highlighted that as recently as 2018, at the age of 44, Walls used a homemade weapon to stab without provocation a fellow inmate who was seated watching a game at the time of the attack (*id.* at 206–07 (PDF) (Opp. Br. pp. 10–11)). The inmate suffered stab

wounds to his back, forehead, forearm, and finger (*id.*). The opposition detailed how Walls attempted to justify the assault by explaining that "[p]eople just don't understand me and I gotta make them understand," and that the other inmate "kept pressing me so I had to do what I had to do" (*id.*). The opposition further noted that Walls had committed other assaults with serious bodily injury and on multiple other occasions possessed a prohibited dangerous weapon (*id.* at 207 (PDF) (Opp. Br. p. 11)).

The September 22, 2023, Motions Hearing

Baird testified at the September 22, 2023, hearing that, based on her review of Walls's prison records and interview with Walls, his 2018 assault on his fellow inmate with a homemade knife was prompted by the inmate trying to establish his reputation by "bully[ing]" Walls (9/22/23 Tr. 13, 15). Baird relayed that Walls explained to her that he attacked the other inmate with a weapon to ensure that at least one of them would be transferred to another facility according to prison rules (*id.* at 14–15). Baird also testified about the benefits she believed Walls gleaned from educational and therapeutic programming and his behavioral trajectory in prison (see *id.* at 21–22, 25).

Walls's sister testified about Walls's difficult childhood and the familial support Walls could expect if released from prison (see 9/22/23 Tr. 28–41). Finally, Walls testified, again expressing his remorse for his actions, emphasizing his youth at the time of the offense, explaining the challenging circumstances of his upbringing, contextualizing the 2018 assault, and noting his rehabilitative efforts in prison (see *id.* at 43–51).

The Trial Court's IRAA Order

The trial court reviewed the applicable law and carefully assessed each of the IRAA's 11 statutory factors (App'x A 4–19 (Order)). The court found that factors 1, 2, 3, 5, 8, and 10 weighed in favor of a sentencing reduction and that none conclusively weighed against a reduction (*id.* at 10–13). The court also acknowledged Walls's familial support and proposed reentry plan similarly supported a sentencing reduction (*id.* at 13–14). The trial court did, however, note concerns about Walls's lengthy record of infractions in prison, including the 2018 stabbing that the court described as a "resort[ ] to violence when confronted with a difficult situation," and "not an act of someone who has been fully rehabilitated" (*id.* at 11–14).

After finding Walls eligible for a reduction, the trial court determined that based on the entire record it did "not believe that [Walls] [wa]s ready for immediate release," and it found that he "would benefit from further time and support within the correctional system" (App'x A 17 (Order)). Accordingly, it exercised its discretion to accelerate his parole eligibility date by 10 years through reducing his minimum sentence for first-degree murder while armed from 30 years to life to 20 years to life (*id.* at 18–20). The trial court did not otherwise amend Walls's other sentences (*id.*).

SUMMARY OF ARGUMENT

The trial court did not abuse its discretion when it granted Walls's IRAA motion and reduced his sentence.

First, the trial court did not abuse its discretion in resolving IRAA Factor 10 in Walls's favor. The court did not impermissibly treat Walls's young age at the time of the shooting as a matter of degree that only partially weighed in favor of reducing his sentence. On the contrary, the court without qualification concluded that Walls's age supported a sentencing reduction under the IRAA. And while the trial court's order omitted Factor 10's language about aging out of crime, the court took

those considerations into account. As the order reveals, the trial court carefully considered Walls's maturation, his efforts to reform himself, and his strong familial support encompassed by Factor 10's second clause. But the Court need not decide whether there was error because any error would be entirely harmless, as the trial court conclusively resolved Factor 10 in Walls's favor and ultimately reduced Walls's sentence.

Second, the trial court did not abuse its discretion by not ordering Walls's immediate release. The statute requires only that a court reduce a defendant's sentence if the defendant meets the eligibility criteria. The court properly exercised its discretion to reduce Walls's sentence to a period greater than time served. The trial court also did not impermissibly delegate its responsibility under the IRAA by giving Walls an indeterminate sentence with parole eligibility. Indeed, the statute explicitly contemplates defendants receiving life sentences with parole eligibility, which is exactly what the trial court ordered here. And, contrary to Walls's claim, the court was not required to explain further the reason it did not immediately release him beyond the justification in its order.

Third, the trial court's 20-years-to-life sentence for first-degree murder while armed is not an illegal sentence. The IRAA instructs courts to resentence defendants according to the regime originally governing a defendant's sentence. The specific first-degree murder statute governing Walls's original sentence, which requires a minimum sentence of 30 years, overrides the general provision in the D.C. Code that a life sentence cannot carry a minimum term exceeding 15 years. Because of that override, the trial court permissibly reduced Walls's sentence to a minimum term exceeding 15 years.

ARGUMENT

The Trial Court Did Not Abuse Its Discretion in Granting IRAA Relief and Reducing Walls's Sentence.

A. Standard of Review and Legal Principles Applicable to Appeals of IRAA Orders.

This Court reviews a trial court's disposition of an IRAA motion for abuse of discretion. *Long v. United States*, 312 A.3d 1247, 1269 (D.C. 2024). Applying that standard, the Court must "determine whether the [trial court] failed to consider a relevant factor, whether [it] relied upon an improper factor, and whether the reasons [it gave] reasonably support

the conclusion." *Id.* (cleaned up). In reviewing a trial court's IRAA order, this Court affords "broad deference to [the] ruling by the trial court." *Id.* (citation omitted). And it reviews de novo any questions of statutory interpretation underlying the trial court's exercise of its authority. *See Illinois Farmers Ins. Co. v. Hagenberg*, 167 A.3d 1218, 1232 (D.C. 2017) (citation omitted).

Under the IRAA, a defendant may petition the Superior Court for a sentencing reduction if he (1) was under the age of 25 when he committed an offense, (2) was sentenced under D.C. Code §§ 24–403, 24–403.01, or 24–903, and (3) has served as least 15 years in prison. *Id.* §§ 24–403.03(a)(1), (b)(1). The defendant is eligible for a sentence reduction if the trial court, after considering 11 statutory factors,[1] determines that

[1] The 11 statutory factors are:

> (1) The defendant's age at the time of the offense;
>
> (2) The history and characteristics of the defendant;
>
> (3) Whether the defendant has substantially complied with the rules of the institution to which the defendant has been confined, and whether the defendant has completed any educational, vocational, or other program, where available;

(continued . . .)

(4) Any report or recommendation received from the United States Attorney;

(5) Whether the defendant has demonstrated maturity, rehabilitation, and a fitness to reenter society sufficient to justify a sentence reduction;

(6) Any statement, provided orally or in writing, provided pursuant to § 23–1904 or 18 U.S.C. § 3771 by a victim of the offense for which the defendant is imprisoned, or by a family member of the victim if the victim is deceased;

(7) Any reports of physical, mental, or psychiatric examinations of the defendant conducted by licensed health care professionals;

(8) The defendant's family and community circumstances at the time of the offense, including any history of abuse, trauma, or involvement in the child welfare system;

(9) The extent of the defendant's role in the offense and whether and to what extent another person was involved in the offense;

(10) The diminished culpability of juveniles and persons under age 25, as compared to that of older adults, and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences, which counsel against sentencing them to lengthy terms in prison, despite the brutality or cold-blooded nature of any particular crime, and the defendant's personal circumstances that support an aging out of crime; and

(11) Any other information the court deems relevant to its decision.

D.C. Code § 24–403.03(c).

the defendant is "not a danger to the safety of any person or the community" and the "interests of justice warrant a sentence modification." *Id.* §§ 24–403.03(a)(2), (c). The trial court must memorialize in writing its decision on whether the defendant satisfied these two eligibility criteria. *Id.* § 24–403.03(b)(4). If the defendant meets those two criteria, then the trial court "proceed[s] to sentencing" and must "reduce [the] term of imprisonment imposed upon [the] defendant." *Id.* §§ 24–403.03(a), (b)(4).

The trial court fashions an appropriate reduced sentence for an eligible defendant by resentencing him "under the sentencing regime that originally governed his sentence." *Williams v. United States*, 205 A.3d 837, 848 (D.C. 2019) (citing D.C. Code § 24–403.03(e)); *see* D.C. Code § 24–403.03(e). The IRAA provides further that, in resentencing, judges (1) may ignore mandatory minima if they choose, and (2) may not imposing life sentences without the possibility of parole or release. D.C. Code § 24–403.03(e)(2). The statute otherwise places no limitations on resentencing, leaving it to the judge to exercise her discretion to determine an appropriate reduced sentence in applying the regime governing the defendant's original sentence. *See Williams*, 205 A.3d at

848. Absent some procedural defect,[2] the reasonableness of a legal sentence imposed by the trial court is beyond appellate review. *Matter of L.J.*, 546 A.2d 429, 434–35 (D.C. 1988).

B. Discussion

1. The Trial Court Did Not Abuse Its Discretion in Resolving IRAA Factor 10 in Walls's Favor.

Walls claims (Appellant's Motion for Summary Reversal (MSR) 17–19) that the trial court abused its discretion by resolving IRAA Factor 10 in his favor en route to finding him eligible for a sentencing reduction. He assigns two errors to the trial court's disposition of this factor. First, he asserts (MSR 18–19) that the court treated Factor 10's first clause as a matter of degree instead of categorically resolving it in his favor. And second, he maintains (*id.* at 17–18) that the court failed to consider whether he has aged out of crime. Neither argument has merit.

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[2] *See, e.g.*, *Bradley v. District of Columbia*, 107 A.3d 586, 595–97 (D.C. 2015) (court can review procedural defects, such as the trial court's reliance on materially false facts in rendering a sentence, for compliance with due process); *Matter of L.J.*, 546 A.2d 429, 434–35 (D.C. 1988) (listing various procedural infirmities subject to appellate review and differentiating between the "process by this the [sentence] in [a] case was reached" from the "substantive result of that process," which is beyond appellate review). Walls does not claim any such procedural defect here.

In determining whether a defendant is eligible for a sentencing reduction, courts must consider both clauses of the IRAA's tenth factor:

> [1] The diminished culpability of juveniles and persons under age 25, as compared to that of older adults, and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences, which counsel against sentencing them to lengthy terms in prison, despite the brutality or cold-blooded nature of any particular crime, and [2] the defendant's personal circumstances that support an aging out of crime. D.C. Code § 24–403.03(c)(10).

Walls shows no error in the trial court's application of this factor.

First, as this Court has explained, in resolving the first clause of Factor 10 courts may not consider the "degree" to which the defendant's youth contributed to his decision to commit a criminal offense. *Bishop v. United States*, 310 A.3d 629, 645 (D.C. 2024). Rather, they must "categorically" weigh that consideration in favor of the defendant's eligibility for a sentencing reduction. *Id.*

That is exactly what the trial court did here in unambiguously concluding that Factor 10 "weighs in favor of a sentence reduction" (App'x A 16). The trial court noted that Walls was 18 at the time he shot at and murdered Moore and injured Cherry (*id.*). Crediting his youth and noting corroborating evidence in the record, the trial court reached the conclusion compelled by this Court: that Walls was "likely driven by

anger, impulsivity, and an inability to consider the consequences of his actions" (*id.* (quoting *Graham v. Florida*, 560 U.S. 48, 69 (2010)). The trial court did not purport to treat its consideration of this factor as a matter of degree or even imply that it was taking anything less than a categorical approach in fully resolving Factor 10 in Walls's favor.

Walls's reliance on *Bishop* in support of his position is misplaced. There, unlike here, the trial court failed to categorically resolve Factor 10 in the defendant's favor and instead counter-balanced it against his record of violence before and after the crime. *Bishop*, 310 A.3d at 645–46. And based in part on that determination, the court denied the defendant's IRAA application. *Id.* at 641–42, 644–47. The categorical approach adopted by the court here in fully resolving Factor 10 in Walls's favor is fundamentally different than the error in *Bishop*.

Second, Walls's reliance on *Bishop* to claim (MSR 17–18) that the trial court erred by failing to consider whether he matured out of crime is equally unavailing. To be sure, like the trial court in *Bishop*, the trial court here did not accurately quote Factor 10, as amended by the D.C. Council in 2021. *See Bishop*, 310 A.3d at 643–44; App'x A 16. But as this Court recognized in *Bishop*, that is not dispositive. 310 A.3d at 644.

Rather, error arises when a court "*both* cite[s] outdated statutory language *and* neglect[s] to discuss the considerations reflected in the current version of the statute." *Id.* (emphases added). In *Bishop*, that dual failure left this Court "unable to conclude" that the trial court would have reached the same "ultimate determination[ ]" that the defendant was ineligible for a sentencing reduction. *Id.* Critically, the Court emphasized that the trial court never considered whether the defendant's "current age and brain maturation may support a finding that he has aged out of crime," nor accounted for any change in his personal circumstances, such as his "detailed reentry plan" with specific post-carceral "living arrangements," "employment," and "social support." *Id.*

As to the trial court's assessment of the relevant considerations from Factor 10's second clause, this case is factually distinguishable from *Bishop*. Here, unlike *Bishop*, the court acknowledged that Walls "has taken impressive steps towards maturity within the past four years" and has improve his "troublesome behaviors" stemming from his difficult childhood (App'x A 14–15 (Order)). The court even described the fruits of that maturation, noting Walls's new sobriety and lack of disciplinary infractions since 2018 (*id.* at 11, 13–14). And the court also credited

Walls's improved relationships with his family and the development of a sound support system upon his release from prison (*id.* at 16–17). Thus, in all material respects the court incorporated into its analysis each relevant consideration from Factor 10's second clause in which the court in *Bishop* fell short. *Cf. Bishop*, 310 A.3d at 644.

In any event, the Court need not decide whether the trial court erred in discussing Factor 10 because any error was harmless. The trial court ultimately found that Factor 10 weighed entirely in Walls's favor (App'x A 16) and ultimately determined that Walls was eligible for a sentencing reduction (*id.* 17–18). *Cf. Bishop*, 310 A.3d at 640–42, 644–47 (finding harm because the court did not fully resolve Factor 10 in the defendant's favor and ultimately denied relief).

2. The Trial Court Did Not Abuse Its Discretion by Not Immediately Releasing Walls.

Walls next claims (MSR 10–15) that the trial court erred by not ordering his immediate release after finding him eligible for a sentencing reduction under the IRAA. In support, he first broadly argues (*id.* at 10–13) that "[t]he appropriate remedy when the trial court finds the defendant is no longer dangerous and that grating relief is in the

interests of justice, is to order the release of the defendant, not require the defendant to serve additional time in prison." He later retreats from that blanket statement but contends (*id.* at 11–12) that the trial court failed to justify its discretionary decision to sentence him to a period greater than time served. He then separately asserts (*id.* at 13–15) that the trial courts illegally delegated its authority under the IRAA to the Parole Commission by resentencing him to an indefinite term with future parole eligibility. Each argument is meritless.

a. The Trial Court Did Not Abuse Its Discretion in Fashioning a Reduced Sentence Greater Than Time Served.

Walls initially argues (MSR 12) that the "appropriate remedy" under the IRAA is to release all defendants when they are "no longer dangerous" and the "interests of justice" support a sentencing reduction. He later backs down from this sweeping proposition (*id.* at 13 ("This is not to argue that a trial court can *never* reduce a sentence under the IR[A]A without granting immediate release.")). To the extent Walls contends that the IRAA requires release of eligible defendants, that argument is belied by the plain text of the statute and appears to

misapprehend the statute's distinction between the eligibility criteria and resentencing. And contrary to Walls's claim (*id.* at 12–13), the trial court also was not required to explain in more detail why it did not order immediate release.

The IRAA does not dictate that courts automatically release defendants eligible for relief. Rather, the statute requires that courts "*reduce* a term of imprisonment" for eligible defendants. D.C. Code § 24–403.03(a) (emphasis added). Had the D.C. Council intended for all defendants eligible for relief under the IRAA to be immediately released, it would have said so. *See In re Macklin*, 286 A.3d 547, 557 (D.C. 2022). Walls offers no authority allowing this Court to read into the statute language the Council chose not to include. *See Virginia Uranium, Inc. v. Warren*, 587 U.S. 761, 765 (2019) ("[A]s in any field of statutory interpretation, it is our duty to respect not only what [the legislature] wrote but, as importantly, what it didn't write.").

Based on the text of the statute, this Court has correctly rejected the limitations on the trial court's sentencing discretion advanced by Walls. As *Williams* reasoned, a trial court consistent with the statute "*could* . . . reduce [a defendant's sentence] to time served, effecting the

prisoner's prompt release, based on its determination of his reformation and suitability for such relief." 205 A.3d at 849 (emphasis added). But it does not have to do so. In exercising its discretion, the trial court could also choose to reduce a defendant's sentence in several other ways, including "render[ing] a prisoner . . . serving an indeterminate sentence[ ] eligible for parole much earlier (or, indeed, immediately) by lowering the minimum terms imposed for each count of conviction." *Id.* And, consistent with that reasoning, this Court recently affirmed a sentencing reduction under the IRAA to a period greater than time served. *Welch v. United States*, __ A.3d __, 2024 WL 3709230, at *3–4 & n.3 (D.C. Aug. 8, 2024). That is exactly what the court did here in reducing Walls's sentence from 30 years to life to 20 years to life. Walls cannot show that the court erred by not providing relief greater than that demanded by the statute. *See id.*

In arguing that immediate release is the "appropriate remedy" when a defendant is "no longer dangerous" and the "interests of justice" entitle him to relief under the IRAA (MSR 12), Walls conflates the IRAA's eligibility criteria with the trial court's separate discretionary resentencing authority under the statute. Whether the defendant is still a "danger to the safety of any person or the community" and whether "the

interests of justice warrant a sentence modification" are conditions precedent for reduction *eligibility* under subsections (a) and (c) of the IRAA. D.C. Code §§ 24–403.03(a), (c). They relate to "*whether* [a court will] reduce a [defendant's] term of imprisonment." D.C. Code §§ 24–403.03(a)(2), (c) (emphasis added). They do not, however, play a role in the trial court's *resentencing* determination, which is governed by a separate part of the statute that comes into play if a defendant is eligible for relief. *Id.* § 24–403.03(e); *see id.* § 24–403.03(b)(4); *see also Williams*, 205 A.3d at 848 (if court grants application for sentence reduction, "it shall proceed to resentence the defendant under the sentencing regime that originally governed his sentence") (citing D.C. Code § 24–403.03(e)).

Thus, the dangerousness and interests-of-justice criteria are the keys that unlock the requirement of a sentencing reduction. They do not, however, dictate a defendant's immediate release or otherwise constrain the trial court's imposition of a reduced sentence.[3] Rather, the IRAA

[3] For similar reasons, Walls's argument (MSR 12) that the trial court read into the statute the additional "criterion" of "benefit[ting] from continued incarceration" is misplaced. The trial court followed the 11 statutory criteria in determining that Walls was eligible for a sentencing reduction. Its decision on the amount of that reduction, including that Walls could benefit from further correctional programming, related to the separate (continued . . .)

leaves to the judge's discretion the fashioning of an appropriate reduced sentence for eligible defendants, subject to a few statutory and constitutional provisions. *See Welch*, __ A.3d __, 2024 WL 3709230, at *3–4 & n.3; *Williams*, 205 A.3d at 847–49, 854–55. First, the trial court must "resentence the defendant under the sentencing regime that originally governed his sentence." *Williams*, 205 A.3d at 848 (citing D.C. Code § 24–403.03(e)).[4] Second, in applying the original sentencing regime, the trial court may ignore mandatory minimum prison terms provided by other sentencing statutes. D.C. Code § 24–403.03(e)(2)(A). Third, the court may not sentence an eligible defendant to life without the possibility of parole or release. *Id.* § 24–403.03(e)(2)(B). And fourth, the new sentence must

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resentencing process apart from the eligibility determination. The trial court thus did not add any additional factors. And though it did not err in any way, any error would be entirely harmless because the trial court found Walls eligible for IRAA relief.

[4] There are important distinctions between the criteria that courts consider during the IRAA eligibility stage and the resentencing stage. For example, during the eligibility phase, courts are directed to focus on the defendant's dangerousness and personal characteristics. *See* D.C. Code §§ 24–403.03(a)(2), (c). By contrast, sentencing is a far broader inquiry that concerns not only the defendant's personal characteristics but also the appropriate punishment based on the seriousness of the offense as well as the need for specific and general deterrence. *See id.* § 24–403.01(a).

not violate the Eighth Amendment's prohibition against cruel and unusual punishments. *See Williams*, 205 A.3d at 854–55. Walls does not—and cannot—argue that the reduced sentence he received violated any of these provisions.

Walls also claims (MSR 11–12) that the trial court failed to justify its sentencing decision in its order.[5] To start, while the IRAA requires courts to explain their reasoning for IRAA eligibility, D.C. Code § 24–403.03(b)(4), the statute treats resentencing separately and imposes no equivalent requirement for trial courts' sentencing decisions. *See id.*; *cf. id.* § 24–403.03(e). Indeed, unlike in the federal system where courts must explain on the record its reasons for imposing a particular sentence, *see* 18 U.S.C. § 3553(c), there is no equivalent "requirement" in the District that a "judge explain his reasons for imposing an adult sentence."

[5] In his Motion (MSR 11–12), Walls relies heavily on this Court's unpublished summary order in *Jones v. United States*, 22-CO-909 (D.C. May 22, 2023) (see App'x C 30–31) for the proposition that trial courts must explain their reasoning for not immediately releasing a defendant after finding him eligible for IRAA relief. His reliance on *Jones* is improper. The unpublished summary order in *Jones* has no precedential value, *In re Pearson*, 628 A.2d 94, 98 n.8 (D.C. 1993), and his citation to the order violates D.C. App. R. 28(g). This Court should thus disregard it altogether.

Veney v. United States, 681 A.2d 428, 430–31 (D.C. 1996); *see also* District of Columbia Sentencing Commission, Voluntary Sentencing Guidelines Manual § 7.4 (Sept. 1, 2023) ("A judge is not required to explain why they imposed a compliant sentence"). Certainly an explanation may be helpful. *See Welch*, __ A.3d __, 2024 WL 3709230, at *3 n.3 (trial court "provided detailed record-based reasoning for its conclusion that [defendant]'s level of rehabilitation warranted a sentence reduction rather than immediate release"). It is not, however, required.

Furthermore, unlike the trial court's disposition of a defendant's IRAA eligibility, its discretionary sentencing decision is beyond appellate review. *See Matter of L.J.*, 546 A.2d at 434–35. Thus, any issue that Walls might take with the trial court's discretionary determination that he should still serve at least 35 years in prison for his first-degree murder of Moore, his assault with intent to kill Cherry while armed, and his possession of a firearm while committing the shooting is not a basis for reversal. *See id.*

In any event, the trial court here *did* explain its resentencing decision. It stated that it was not reducing Walls's sentence to time served because it determined that he "would benefit from further time

and support within the correctional system" (App'x A 17 (Order)). That determination is amply supported by the court's noted concerns over Walls's lengthy disciplinary record with 47 infractions, including violently stabbing without provocation a fellow inmate with a homemade knife as recently as 2018 at the age of 44 (*id.* at 6–8, 11–14, 17).

b. The IRAA Does Not Prohibit Trial Courts from Imposing a Reduced Sentence That Accelerates a Defendant's Parole Eligibility.

Walls next contends (MSR 13–15) that the trial court erred by imposing an indeterminate sentence with future parole eligibility, rather than resentencing him to a prison term with a firm release date without regard to the parole process. The text of the statute and this Court's precedents refute this argument.

Walls reads into the IRAA a resentencing constraint that is not only absent from the statute but is explicitly contradicted by its plain language. In the subsection governing resentencing, the IRAA provides that a court "[s]hall *not* impose a sentence of life imprisonment *without the possibility of parole* or release." D.C. Code § 24–403.03(e)(2)(B) (emphases added). The statute also incorporates by reference D.C. Code

§ 24–403, which also expressly contemplates indeterminate sentences with parole eligibility. *Id.* §§ 24–403.03(e)(1), 24–403(a). Because these provisions directly contemplate indeterminate sentences with future parole eligibility, there is no foundation for Walls's argument that the trial court was required to issue a sentence with a firm release date.

Consistent with the text, this Court has recognized that trial courts may impose indefinite sentences under the IRAA that maintain a prisoner's parole eligibility. *See Williams*, 205 A.3d at 849 (acknowledging that a trial court may "render a prisoner . . . serving an indeterminate sentence[ ] eligible for parole much earlier . . . by lowering the minimum terms imposed for each count of conviction"). And it recently affirmed a resentencing under the IRAA that reduced a defendant's prison sentence to an indefinite term with parole eligibility. *Welch*, __ A.3d __, 2024 WL 3709230, at *3–4 & n.3. In affirming, *Welch* also explicitly rejected the same argument advanced by Walls that this type of sentence impermissibly delegates the court's authority under the IRAA regarding a defendant's release to the Parole Commission. *Id.* at *3 n.3.

The two cases that Walls cites do not support his claim of error. *Williams* (MSR 14) likens the IRAA scheme to parole eligibility in the context of discussing how the statute provides a meaningful avenue for youthful offenders to avoid the possibility of life in prison without parole in compliance with the Eighth Amendment and *Miller v. Alabama*, 567 U.S. 460 (2012). *Williams*, 205 A.3d at 849–855. And *Long v. United States*, 312 A.3d 1247 (D.C. 2024) (MSR 14–15), held that a defendant remains eligible for IRAA relief even though he has been released on parole. 312 A.3d at 1262–65. Neither case disallows indeterminate sentences with parole eligible, contradicts *Welch*, or otherwise supports that a trial court abdicates its responsibility under the IRAA by resentencing a defendant to an indefinite period with parole eligibility date.

3. In Reducing Walls's Sentence for First-Degree Murder While Armed to 20 Years to Life, the Trial Court Did Not Impose an Illegal Sentence.

Walls finally claims (MSR 15–17) that the trial court erred by imposing an illegal sentence of 20 years to life for first-degree murder while armed. According to Walls, the maximum reduced sentence he

could receive for this crime is 15 years to life. His argument misconstrues the interplay between the IRAA and the District's first-degree murder sentencing scheme.

Under the IRAA, courts must sentence defendants eligible for a sentencing reduction "under the sentencing regime that originally governed [the defendant's] sentence." *Williams*, 205 A.3d at 848 (citing D.C. Code § 23–403.03(e)). The statute accomplishes this by first defining the class of defendants eligible to apply for relief as those who were "sentenced pursuant to [D.C. Code] § 24–403 or § 24–403.01, or [were] committed pursuant to § 24–903." D.C. Code § 24–403.03(a)(1). The IRAA's resentencing subsection mirrors that criterion by providing that a "defendant whose sentence is reduced under this section shall be resentenced pursuant to [D.C. Code] § 24–403, § 24–403.01, or § 24–903, as applicable." *Id.* § 24–403.03(e)(1). The statute then modifies that original sentencing scheme in two ways by permitting courts to ignore mandatory minima and prohibiting courts from sentencing defendants to life without the possibility of parole or release. *Id.* § 24–403.03(e)(2).

Because Walls faced life imprisonment for committing first-degree murder while armed, the original sentencing regime for that conviction

fell under D.C. Code § 24–203 (1992), the precursor to § 24–403, which generally applies to all indeterminate sentences. As Walls correctly points out, that section required courts imposing life sentences to make a defendant parole-eligible after no more than 15 years. D.C. Code § 24–203(a) (1992). But Walls prematurely stops his analysis there.

That generally applicable 15-year restriction was modified by D.C. Code § 22–2404 (1992), the precursor to § 22–2104, the District's specific statute governing sentences for first-degree murder. *See Bryant v. Civiletti*, 663 F.2d 286, 291–92 (D.C. Cir. 1981) (recognizing that D.C. Code § 22–2404 augments the indeterminate sentencing restrictions in D.C. Code § 24–203). Under that section, the penalty for first-degree murder is "life imprisonment" and, "[n]otwithstanding any other provision of law," defendants may become "eligible for parole only after the expiration of 30 years from the date of the commencement of the sentence." *Id.* §§ 22–2404(a), (b) (1992). Accordingly, it is the 30-year minimum in D.C. Code § 22–2404(b) (1992) that was incorporated into the "sentencing regime that originally governed [Walls's] sentence,"

Williams, 205 A.3d at 848, not the 15-year minimum in D.C. Code § 24–403(a), as he argues. *See Bryant*, 663 F.2d at 291–92.[6]

Accordingly, D.C. Code § 24–403(a) (and its predecessor) is "applicable," *id.* § 24–403.03(e)(1), to Walls's IRAA resentencing but only to the point that the first-degree murder statute specifically overrides its 15-year sentencing restrictions. And because of the IRAA's reprieve from mandatory minima, *id.* § 24–403.03(e)(2)(A), the trial court was able to resentence Walls to below the 30-year minimum for parole eligibility demanded by the homicide statute. Thus, the trial court did not err at all

[6] Walls's inverse reading that D.C. Code § 24–403(a) overrides the mandatory minima in the homicide statute in the context of IRAA resentencing would render every defendant convicted of first-degree murder immediately eligible for parole because serving 15 years in prison is a condition precedent to relief. *See* D.C. Code § 24–403.03(a)(1). That would lead to the curious result of making this specific class of criminals—the worst offenders in the eyes of the law—eligible for release sooner than any other inmate, such as a defendant serving a 30-year sentence for distribution of a controlled substance whose sentence was reduced to 20 years. If the D.C. Council had truly intended that result, surely it would have stated it plainly in the statute. But it did not. And the far more reasonable reading of the statute, and the one endorsed by this Court, is that the "sentencing regime that originally governed [the defendant's] sentence" equally governs his sentencing reduction. *Williams*, 205 A.3d at 848.

in reducing Walls's sentence for first-degree murder while armed from 30 years to life to 20 years to life.

CONCLUSION

WHEREFORE, the government respectfully submits that the Court should deny Walls's motion for summary reversal and affirm the judgment of the Superior Court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have caused a copy of the foregoing to be served by electronic means, through the Court's EFS system, upon counsel for appellant, Peter Meyers, Esq., on this 12th day of August, 2024.

/s/
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