Circuit Court for Baltimore County
Case No. 03-K-17-001763

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2014

September Term, 2018

HOWARD JIMMY DAVIS

v.

STATE OF MARYLAND

Meredith,*
Shaw Geter,
Eyler, Deborah S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Meredith, J.

Filed: October 9, 2020

* Meredith, J., now retired, participated in the argument and conference of this case while an active member of the Court; after being recalled pursuant to Maryland Constitution, Article IV, Section 3A, he also participated in the decision and adoption of this Opinion.

After entering a conditional guilty plea in the Circuit Court for Baltimore County, Howard Jimmy Davis, appellant, was convicted of two counts of first degree assault and use of a firearm in a crime of violence. For each assault conviction, Davis was sentenced to concurrent terms of fifteen years, with all but ten years suspended; for the firearm conviction, he was sentenced to another concurrent five years without parole.

Davis, who was sixteen years old at the time he committed these offenses, raises a single question in his brief: "Did the trial court abuse its discretion in denying the motion to transfer jurisdiction to the juvenile court?" Davis contends that the circuit court did not properly consider his "reverse waiver" motion to transfer jurisdiction to the juvenile court pursuant to Maryland Code (1974, 2013 Repl. Vol., 2016 Supp.), Criminal Procedure Article ("CP"), § 4-202. Despite conceding that "[t]ransfer determinations are vested in the sound discretion of the trial court, and rarely reversed on appeal[,]" Davis asserts that "[t]his is the rare case warranting reversal," and he requests a "limited remand for a new transfer hearing."

For reasons that follow, we disagree and affirm his convictions.

BACKGROUND

Davis and two other persons participated in a home invasion in Baltimore County during the early morning hours of March 22, 2017. At approximately 1:40 a.m., the home invaders broke down a sliding glass door to enter the kitchen while the occupants were asleep. Sleeping in the home were a man and woman (who were described as fiancé and fiancée), and their children (an 11-year-old boy and two teenage girls). When the adults

were awakened by the sound of the break-in, the man went downstairs to investigate, and was confronted by masked men, who fled briefly, but then returned, armed with at least one assault rifle. By the time police arrived in response to a 911 call, the invaders had fired shots in the house and had bludgeoned the man who had confronted them. Police arrested suspects who led them to Davis.

Although Davis was 16-years-old at the time of the home invasion, after he was arrested, he was charged as an adult with fourteen counts that included attempted first degree murder. Davis moved to transfer his case to juvenile court, a procedure commonly known as "reverse waiver." *See King v. State*, 36 Md. App. 124, 128 (1977). In such cases, CP § 4-202(b) provides that a circuit court, when "exercising criminal jurisdiction in a case involving a child," has discretionary authority to transfer the case

> to the juvenile court before trial or before a plea is entered under Maryland Rule 4-242 if:
>
> (1) the accused child was at least 14 but not 18 years of age when the alleged crime was committed;
>
> (2) the alleged crime is excluded from the jurisdiction of the juvenile court under § 3-8A-03(d)(1), (4), or (5) of the Courts Article; and
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> (3) the court determines by a preponderance of the evidence that a transfer of its jurisdiction is in the interest of the child or society.

CP § 4-202(d) states that the circuit court, when "determining whether to transfer jurisdiction" to juvenile court, "shall consider" the following five factors:

(1) the age of the child;

(2) the mental and physical condition of the child;

(3) the amenability of the child to treatment in an institution, facility, or program available to delinquent children;

(4) the nature of the alleged crime; and

(5) the public safety.

"The burden is on the juvenile to demonstrate that under these five factors, transfer to the juvenile system is in the best interest of the juvenile or society." *Whaley v. State*, 186 Md. App. 429, 444 (2009). *See generally Gaines v. State*, 201 Md. App. 1, 9-11 (2011) (reviewing standards for waiver from juvenile court and for reverse waiver from circuit court).

When the circuit court held a hearing on Davis's request for a reverse waiver to the juvenile court, the circuit court admitted a Reverse Waiver Report prepared by the Department of Juvenile Services ("DJS"). Summarizing information provided by the Baltimore County Police regarding the home invasion leading to the charges against Davis, this report states, in part:

> On 03/22/2017 around 1:39 am, Officer responded to residence in reference to a burglary in progress. The comments advised that someone was in the caller's residence and was shooting at home.
>
> Upon arrival at the location, Officer observed a female hanging from a window on the upper level of the residence. The female, who was later identified as [Ms.] W[.], advised the officer from the window that there were several unknown male subjects in her house and that they were possibly around back. Officer cautiously approached the rear of the location at which time he observed two male subjects running from the patio area. The two male subjects were pursued on foot . . . . Officer observed the subjects enter a [silver] minivan . . . . A description and direction of travel of the vehicle was broadcasted via police radio. Shortly after hearing the vehicle description, Officers observed a silver Chrysler minivan bearing Maryland registration turning onto Windsor Mill Road. . . . Officers activated their

emergency equipment and attempted to stop the vehicle. The driver failed to stop and vehicle pursuit [ensued]. The vehicle eventually crashed . . . and three . . . subjects fled . . . .

[Mr.] G[.] and [Ms.] W[.], the residents of [the invaded home], were both transported to the Woodlawn Precinct to be further interviewed by Detectives. [Mr.] G[.] advised that he and his Fiancee, [Ms.] W[.], were sleeping upstairs when they heard a loud banging noise coming from the kitchen. G[.] said that he then went downstairs to investigation [sic] the noise at which time he observed [a]n unknown male subject standing near his breakfast bar and two other unknown males coming through his sliding glass door. G[.] said that he immediately began physically fighting with the subject who was standing near the breakfast bar in the kitchen. The three subjects then fled the kitchen on foot. He said that he then went back upstairs to get dressed and call 911 at which time he heard several gunshots coming from the kitchen area. Several seconds later, G[.] said that his bedroom door was kicked in and a . . . male subject with a black assault rifle entered the bedroom. At the time, G[.] said that his Fiancee was hiding behind the bedroom door and later locked herself in the bathroom. G[.] advised that he grabbed the barrel of the rifle and it fired several times. A fight ensued and they struggled over the rifle. At this time, G[.] said that he was struck in the face with the butt of the [rifle]. After a brief struggle, the subject left the bedroom and fled the residence on foot. . . . G[.] suffered injuries.

[Mr.] G[.] advised that all three of the males were wearing masks, gloves, and all dark clothing.

Detectives then spoke with the homeowner, [Ms.] W[., who] . . . said that she called 911 while standing near the bedroom door. A short time later while [she was] on the phone with 911, an unknown male subject wearing a mask, gloves and all dark clothing kicked open the bedroom door and pointed a long black gun at her. She said that she pushed the barrel of the gun away from her, knocked over the ironing board and ran to the bathroom where she locked herself in. While in the bathroom, [Ms.] W[.] said that she heard G[.] [f]ighting with someone in the bedroom. She said that she remained in the bathroom until police arrived. During the interview, [Ms.] W[.] was visibly shaken and she advised that she heard several gunshots during the incident, but was unsure when they occurred. [Ms.] W[.] did not suffer from any physical injuries.

[Ms.]W[.]'s teenage daughters were in their bedrooms at the time of the incident and could not provide any pertinent information.

> The Detective also spoke with [Mr.] G[.]'s eleven year old son, [A.G.], who has a bedroom in the basement. [A.G.] advised that he walked upstairs after hearing banging noises. When he opened the door, [A.G.] observed two . . . males wearing masks. [A.G.] said that one [sic] the subjects slammed the door in his face. He advised that the other subject opened the door and pointed a long black gun similar to an assault rifle at him. [A.G.] said that he ran downstairs and hid under a blanket in his bedroom. He stated that the two subjects came downstairs and searched the basement and then they went back upstairs.
>
> At the Woodlawn Precinct, Detectives conducted post Miranda interviews with Sterlin Miller and Matthew Crawley. Miller admitted that he and Matthew Crawley were both involved in the incident. Miller said that Crawley's only involvement was that he drove the minivan to and from the scene. He said that he and a friend only known as "Howard" were the only two who entered the victim's [sic] residence. Miller stated that "Howard" was in possession of the rifle and was solely responsible for assaulting the male at the location. During the interview with Crawley, he advised that he drove the minivan to the scene and fled from the police after the incident occurred. Miller and Crawley were both cooperative; however, their story contradicts the fact that the victim reported three subjects entered the home.

STANDARDS GOVERNING JURISDICTION OVER JUVENILES AND REVERSE WAIVER

In most cases, a circuit court sitting as a juvenile court has exclusive original jurisdiction over a child between fourteen and eighteen years old who is alleged to have committed an act that would be a criminal offense if committed by an adult. *See* Md. Code (1974, 2013 Repl. Vol., 2016 Supp.), Courts & Judicial Proceedings Article ("CJP"), § 1-501; CJP § 3-8A-03(a). Among the criminal charges over which a juvenile court "does not have jurisdiction" are those in which "[a] child at least 14 years old [is] alleged to have done an act which, if committed by an adult, would be a crime punishable by life imprisonment," CJP § 3-8A-03(d)(1), and those in which "[a] child at least 16 years old

[is] alleged to have committed . . . . [a]ssault in the first degree[,]" "[a]ttempted murder in the first degree[,]" or use of a firearm in the commission of a crime of violence. *See* CJP § 3-8A-03(d)(4). In such cases, exemption from the juvenile court's jurisdiction extends also to "all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed under [CP] § 4-202[.]" *See* CJP § 3-8A-03(d).

On appeal, we review a reverse waiver determination for legal error in the application of the standards set forth in CP § 4-202(d), and for abuse of discretion in weighing the statutory factors. *See Whaley*, 186 Md. App. at 444.

> "Abuse of discretion . . . has been said to occur 'where no reasonable person would take the view adopted by the [trial] court,' or when the court acts 'without reference to any guiding rules or principles.' It has also been said to exist when the ruling under consideration 'appears to have been made on untenable grounds,' when the ruling is 'clearly against the logic and effect of facts and inferences before the court,' when the ruling is 'clearly untenable, unfairly depriving a litigant of a substantial right and denying a just result,' when the ruling is 'violative of fact and logic,' or when it constitutes an 'untenable judicial act that defies reason and works an injustice.'"

Alexis v. State, 437 Md. 457, 478 (2014) (quoting *North v. North*, 102 Md. App. 1, 13-14 (1994)). When applying the abuse of discretion standard, "we do not reverse 'simply because the appellate court would not have made the same ruling.'" *Devincentz v. State*, 460 Md. 518, 550 (2018) (quoting *North*, 102 Md. App. at 14). "Rather, the trial court's decision must be 'well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable.'" *Id*. (quoting *North*,

102 Md. App. at 14). *See also Gaines*, 201 Md. App. at 21 (applying *North* standard for abuse of discretion in reviewing denial of reverse waiver).

REVERSE WAIVER HEARING RECORD

As noted above, under CJP § 3-8A-03(d), the circuit court (rather than the juvenile court) had original jurisdiction over Davis because he was charged with two offenses that were exempted from the original jurisdiction of the juvenile court: (1) attempted first degree murder, for which a person is, upon conviction, "subject to imprisonment not exceeding life" pursuant to Md. Code (2002, 2012 Repl. Vol., 2016 Supp.), Criminal Law Article ("Crim."), § 2-205; and (2) assault in the first degree when committed by a person at least 16 years old. But, under CP § 4-202(b), Davis's case was eligible for a reverse-waiver transfer to the juvenile court if the circuit court "determine[d] by a preponderance of the evidence that a transfer of its jurisdiction is in the interest of the child or society."

The DJS Reverse Waiver report, prepared in May 2017 by Case Management Specialist Chashelle Warren, noted that Davis had had three prior contacts with DJS, beginning when he was nine years old in 2010:

(1) a fourth degree burglary charge at age nine, which "was resolved at intake on 06-24-2010";

(2) charges of breaking and entering, misdemeanor theft under $100, and malicious destruction, on 06-12-2014, for which Davis completed a victim awareness program on 12-01-2015;

(3) charges of motor vehicle theft on 11-06-2015, while he was under supervision, for which he completed the teen court program on 04-21-2016.

The DJS report addressed the five statutorily mandated transfer factors, without recommending a particular disposition, but noting that, at "a staffing consult" conducted on May 18, 2017, "it was determined that if the defendant was transferred to juvenile jurisdiction[,] evaluations would be requested to help determine appropriate services[.]" The report also stated that Davis would "be eligible for behavioral modification program[s] in state and out of state," and that "[Davis] and his mother . . . are willing to participate in services offered by [DJS]."

A "Mental Health Summary Form" prepared on May 5, 2017, by Earlene M. Williams, LPGC, a Mental Health Clinician at the Charles Hickey, Jr. School ("Hickey"), stated that Davis was "very amenable; he is cooperative, he has a very agreeable personality, an easy-going disposition, and he is very tolerant of others." A Detention Court Report prepared by Ms. Warren before October 10, 2017, noted that Davis "maintained a respectful attitude towards staff while residing at Hickey," "ask[ed] often to assist staff with unit duties[,]" behaved positively toward his peers, avoided physical altercations, and enjoyed participating in peer-based programs. Likewise, a "Detention Behavior Report," prepared in January 2018 by a Hickey Case Management Specialist, noted that Davis "enjoys participating in therapeutic groups[,]" and "maintained a respectful attitude towards staff and peers."

At his reverse waiver hearing on January 23, 2018, Davis called witnesses to testify about his exemplary behavior and amenability to treatment in the juvenile system during

the time when he was detained pending trial. The witnesses described him in glowing terms as a model detainee.

Kimberly Turner, Program Director for unCUFFED Ministries, a faith-based non-profit organization that works with youths charged as adults, testified that she met Davis in March 2017 at the Baltimore County Detention Center when he attended "bible study and life skills training classes." She continued to see him at Hickey, where he was detained pending his reverse waiver hearing.

According to Ms. Turner, Davis was calm, "extremely personable," "undefensive in his posturing and really willing to look at his life and really willing to take count of where he was and what he wanted in life." She reported that, over the ten months preceding the hearing, Davis's desire and ability to apply his faith to his actions increased. Ms. Turner saw "such great potential in him" that she wrote a letter supporting Davis's request for a transfer to juvenile court, expressing her opinion that his "commitment to receiving help" demonstrated "how amenable he is to treatment."

Kristen Zygala, a Clinical Psychologist at Spring Grove Hospital Center who "also do[es] assessments for the Public Defender's Office[,]" testified as an expert, stating that she evaluated Davis on January 3, 2018, while he was at Hickey. In a written report, she characterized Davis as "average across the board" in his intellectual assessment, with no history of significant behavioral problems as a child. Traumatic experiences during his childhood included witnessing the murder of two people. According to Dr. Zygala, Davis has a "strong need for social dependency, attention and security," and a tendency to

"behave in an overly-compliant manner or obliging manner in order to get that social acceptance." A correctional officer at Hickey told Dr. Zygala that Davis was their "best youth," and that he did "not engage in any altercations[,]" "stays to himself[,]" and was "respectful to everyone."

Dr. Zygala testified that Davis "really hadn't exhibited any emotional and behavioral problems" until the months preceding the home invasion, when he believed—mistakenly, it turned out—that he had "potentially lost two children with [his girlfriend] due to a rape." In her written report, Dr. Zygala explained that Davis's girlfriend had "fabricated an elaborate lie that she was pregnant with [Davis's] twins (even sending fake ultrasound pictures). She then told [Davis] that she was raped by a family friend and lost one of the babies."

As a result of this, Dr. Zygala testified, Davis became "withdrawn and depressed," and started "drug use (pills) to cope." Davis reported smoking "approximately 15 blunts each day prior to his detainment," as well as using Percocet a few times a month, and Xanax and Suboxone daily. Davis met "criteria for Cannabis Use Disorder, Opioid Use Disorder, and Sedative Hypnotic Anxiolytic Use Disorder."

Dr. Zygala concluded that, after "the stimulus of the girlfriend ha[d] been removed[,]" Davis returned "to his level of optimal functioning." Based on the trauma Davis had suffered from the girlfriend's deception, and earlier traumas, including witnessing two murders, Dr. Zygala diagnosed Davis to have an "unspecified trauma and stressor related disorder[.]" She could not rule out a "specific mood disorder" until he saw

a therapist for an extended period. Dr. Zygala said that Davis also had a relational problem with his father.

Dr. Zygala described Davis as an "engaged" participant in therapy and assessed him in the "low risk range" for reoffending. In her opinion, Davis would "greatly benefit" from services in the juvenile system. The only services he had received in his prior contacts with the juvenile system occurred during a brief, non-intensive "victim awareness" program after he was placed on probation for a non-violent offense. Dr. Zygala pointed to research showing that "the brain is not developed fully until you're 25," and also pointed to higher rates of reoffending for juveniles held in the adult system. She testified that the fact that Davis wrote a letter of apology to the victims showed that he had "empathy and remorse[,]" which are "traits necessary for . . . improved behavior in the future." In her written assessment, Dr. Zygala concluded that Davis's "strong desire to improve his situation, his significant remorse for previous negativity, and his willingness to participate in any and all recommended treatment" made Davis highly "amenable to treatment" through DJS's rehabilitative services.

Jenna Conway, a Forensic Social Worker at the Office of the Public Defender, testified that, in the "almost 70 transfer cases" she had reviewed, Davis was the only youth who earned 100% of the points available at Hickey for socially appropriate behavior. Davis had received no Behavioral Reports for misconduct. He participated in voluntary programs at Hickey, including "Boys to Men," a mentoring program open only to students selected by staff.

Ms. Conway confirmed that the serious charges pending against Davis did not exclude him from DJS placements. Noting that he had no prior treatment from DJS other than a victim awareness program, she concluded that his needs include behavioral modification, developing positive coping skills, addressing unresolved trauma, vocational and life skills training, and substance abuse treatment. In her view, these needs could be addressed in a juvenile facility. She recommended placement in a "hardware-secure" facility, and she acknowledged that fewer hardware-secure facilities are available to an offender after he turns eighteen. Ms. Conway's written report dated January 17, 2017, was admitted into evidence.

At the conclusion of the hearing, the motion court denied Davis's motion to transfer his case to juvenile court. After stating that the court had "had the opportunity to review the number of reports that have been admitted into evidence, . . . hear the testimony of the experts and consider argument of counsel[,]" the court ruled from the bench, expressly stating that the court was "[g]oing through the five factors" pertinent to a reverse waiver. The court made the following determinations pertinent to this appeal:

- "[W]ith regard to the age of the child, he'll be turning 17 in March."

- "The mental and physical condition of the child is good -- I mean, in spite of emotional problems that have resulted from some of the experiences that he's had. His intelligence is, is good. In fact, it's at least average. While his reading level is, is below what it should be, that's something that he could work on. But his math, . . . I'm pretty impressed with the fact that his math ability is as good as it is. So, . . . this child is not someone who's mentally impaired in terms of his cognitive ability."

- "With regard to . . . amenability to treatment in the juvenile system . . . the report from Juvenile Services indicates that . . . they would need to

conduct another evaluation and that he . . . would be eligible for behavioral modification. They don't mention that he could [be] held in a secure facility, although we know that and certainly that the experts testified to that."

- "The nature of this offense is horrific. It is probably the single most . . . concerning factor with regard to whether or not this young man should remain in the adult system. Everybody's very fortunate here today, that this did not result, in a murder, because it very easily could have. But in any event, that is a very serious, violent offense."

- "I'm not persuaded, frankly, that the girlfriend . . . is to blame here. But I have to say that, the presence of the girlfriend and her influence on the Defendant, that has been explained by the experts . . . and counsel, frankly, in my view, does not favor transfer to the juvenile system, because, you know, there will be other girlfriends in the future and there will be other individuals in his life who will have an influence on him. And if those influences . . . can lead to behavior of this nature, that, frankly, does not weigh in favor of transfer to the juvenile system."

- "[T]he expert that testified, [said] that kids are more impulsive [and that] is certainly true, and, and certainly, most of that has to do with brain development, but it's important to note that, the vast majority of teenagers don't commit home invasion and attempted murder in spite of their impulsivity."

- "It's clear, that when this young man is in custody, he does well, that he doesn't commit any offenses, that he's engaged . . . in treatment, but when he's not in custody he has committed an offense, a very grave, violent offense. And in my view, he's a considerable threat to public safety."

- "Therefore, the Request to Transfer Jurisdiction to the Juvenile Court is denied. He'll remain in the adult system."

On April 26, 2018, Davis appeared before a different judge and entered a conditional guilty plea to two counts of first degree assault and one count of using a firearm in a crime

of violence, expressly "preserv[ing] for appeal [in accordance with Maryland Rule 4-242(d)] all issues raised during the reverse waiver hearing."[1]

As support for the guilty plea, the prosecutor added to the previously proffered summary of the home invasion the following:

> Davis eventually admitted he . . . played a role in this matter. He did write an apology letter, wherein he indicated that he was essentially operating under the belief that his girlfriend, at the time, had been sexually assaulted. . . . He thought . . . the person responsible for the sexual assault lived at this address . . . . Ultimately, it was determined that Mr. G[.] and his wife had absolutely nothing to do with . . . an alleged . . . sexual assault. The Defendant and two Co-Defendants simply got the wrong address. And it turned out that the story about the sexual assault had been made up by someone and forwarded to Mr. Davis.

At sentencing, the circuit court, after acknowledging that Davis "has great qualities and will make something of his life," concluded that the "relative sentences" of Davis's co-defendants—who were serving terms of ten years and twelve years—warranted a sentence of ten years of active incarceration for Davis. The sentencing judge said, however, that she would recommend that Davis's placement be in the Patuxent Institution's Youth Program.

[1]Rule 4-242(d)(2) outlines the requirements for entry of a conditional plea of guilty, stating:

> (2) *Entry of Plea; Requirements*. With the consent of the court and the State, a defendant may enter a conditional plea of guilty. The plea shall be in writing and, as part of it, the defendant may reserve the right to appeal one or more issues specified in the plea that (A) were raised by and determined adversely to the defendant, and, (B) if determined in the defendant's favor would have been dispositive of the case. The right to appeal under this subsection is limited to those pretrial issues litigated in the circuit court and set forth in writing in the plea.

After sentencing, the sentencing judge wrote a letter dated July 2, 2018, supporting Davis's admission to that program, stating:

> I am writing to strenuously recommend Howard Jimmy Davis for admission to the Patuxent Institution. . . .
>
> There are many factors in this case that warrant consideration for placement in Patuxent. Mr. Davis was barely sixteen when this incident occurred. He has no prior offense history, or significant juvenile justice involvement. Mr. Davis spent over nine months at the Charles Hickey School pending hearing on his motion to transfer his charges to juvenile court. I can't recall a time in the past twenty years when I received a more glowing report on the adjustment of a youth in a detention setting. He completed a number of programs, did well in school, had no behavioral incidents, and was described as a leader while he was at the program. Ms. Walley, who currently heads the educational department at Hickey, appeared at sentencing. She indicated this was the first time she appeared in court to testify for a youth. She noted Mr. Davis' positive attitude, his hard work, the depth of his devotion to his family and their support of him, and described Mr. Davis as one of her favorite kids who has ever come through her program.
>
> Mr. Davis had similar reports of progress during the six months he has spent at the Baltimore County Detention Center after his transfer motion was denied. He worked with their Uncuffed Ministries Program, and availed himself of any program opportunities open to him.
>
> * * *
>
> Mr. Davis has responded well to programming in a structured setting. He appears sincerely to regret his involvement and to understand the significance of the trauma and the harm he caused.

Davis noted this appeal.

DISCUSSION

Davis asserts that, in denying his motion to transfer the case to the juvenile court, the motion court "abused its discretion in failing to consider [his] amenability to treatment"

and by "placing undue emphasis on the nature of the offense"; he further asserts that the motion court "committed legal error in failing to consider Mr. Davis's age at the time of the offense[.]" In his reply brief, Davis clarifies that he does not contend "that the ultimate transfer decision was an abuse of discretion[,]" but instead, "seek[s] a limited remand for a new transfer hearing at which the statutory factors are properly considered."

The State urges us to simply affirm the judgments of the circuit court, and asserts that there is no need for a remand:

> [T]he motion court's comments at the reverse-waiver hearing, viewed in context, demonstrate that the court was cognizant of the applicable law, applied it properly, and acted within the bounds of its discretion in denying Davis's request that the circuit court transfer its exclusive jurisdiction over this criminal matter to the juvenile court.

At the time of the home invasion on March 22, 2017, Davis had just turned sixteen years old. Based on his active participation in the invasion and assaults, he was charged with attempted first-degree murder, an offense that is punishable by life imprisonment and, therefore, within the jurisdiction of the circuit court rather than the juvenile court. *See* Crim. § 2-205; *see, e.g.*, *State v. Hardy*, 53 Md. App. 313, 315 (1982) (criminal court had exclusive original jurisdiction over 14 year old charged with attempted murder). In addition, Davis was charged with first degree assault and use of a firearm in the commission of a crime of violence, which are also offenses that fall within the circuit court's jurisdiction. *See* CJP § 3-8A-03(d)(4)(xii) & (xvi); Crim. § 3-202(a)(2); Crim. § 4-204(b).

Davis does not dispute that, given his age and the nature of the charges against him, the circuit court had jurisdiction to try him. Instead, he contends that the motion court gave

inadequate—and therefore improper—consideration of the statutory factors for a reverse waiver. We will address each of Davis's contentions in turn.

Amenability to Treatment

Davis first argues that the circuit court abused its discretion in "failing to consider [his] amenability to treatment[.]" In its bench ruling, the court stated:

> With regard to amenability to treatment in the juvenile system . . . the report from Juvenile Services indicates that they would . . . need to conduct another evaluation and that he . . . would be eligible for behavioral modification. They don't mention that he could [b]e held in a secure facility, although we know that and certainly . . . the experts testified to that.

In Davis's view, the motion court's failure to comment further on amenability in her oral opinion establishes doubt as to whether the court "discharged [its] obligation" to "consider whether the child is 'ready and willing' to submit to treatment" because "[t]he court's discussion of the amenability factor focused exclusively on [his] *eligibility* for services, rather than his *willingness* to take advantage of those services." He quotes a dictionary definition of amenable: "*See* Black's Law Dictionary (11th ed. 2019) (defining 'amenable,' in the sense of 'an amenable child,' as '[a]cknowledging authority; ready and willing')."

The State responds that the motion court indicated it had given appropriate consideration of Davis's amenability to treatment when it commented that, if Davis were transferred to the juvenile system, an additional evaluation would be necessary to determine appropriate programs, and that Davis "would be eligible for behavioral modification services." In the State's view, Davis's attempt to distinguish between his eligibility for juvenile programs and his amenability to treatment amounts to little more

than a "semantic argument" that does not "rebut the strong presumption that the judge knew the law and applied it properly, particularly in light of the extensive argument by defense counsel at the hearing which advanced Davis's compliant behavior while in custody to the forefront."

As the parties acknowledge, "trial judges are not obliged to spell out in words every thought and step of logic." *Beales v. State*, 329 Md. 263, 273 (1993). Consequently, appellate courts "presume that trial judges know and apply the law in making rulings and rendering decisions, unless we have to reason to think otherwise." *Harris v. State*, 458 Md. 370, 412 (2018).

In this instance, we discern no reason to conclude that the motion court failed to give consideration to Davis's amenability to treatment in the juvenile system. The court demonstrated its consideration of Davis's amenability by expressly crediting his exemplary track record in the various programs he participated in while awaiting trial at both Hickey and the Baltimore County Detention Center. And the court did recognize that Davis could participate in DJS behavior modification programs (although further evaluation was necessary to determine which specific programs would be available and appropriate for Davis in a secure DJS facility).

The court also pointed out, however, that, after having three previous contacts with the juvenile system, this fourth contact represented a significant "escalation of violence[,]" which the court viewed as an indication he had not been "amenable to treatment in the juvenile system during his prior contacts." The court's consideration of Davis's

amenability to treatment is further evidenced by the court's observation that, "when this young man is in custody, he does well, . . . he doesn't commit any offenses, . . . he's engaged . . . in treatment, but when he's not in custody he has committed an offense, a very grave, violent offense."

Even though the court was not obligated to spell out every thought and step of logic, the statements the court did make on the record reflect that the court thoroughly considered what was presented in the DJS Report, the testimony at the hearing, and the arguments made by Davis's counsel. Based on this record, we do not agree with the assertion that the court gave no consideration to amenability to treatment, and we are satisfied that the motion court did not err or abuse its discretion in this regard.

Nature of the Offense

Davis next maintains that the circuit court abused its discretion by "placing undue emphasis on the nature of the offense[.]" In Davis's view, the motion court's statement that the "horrific" nature of the offense was "the single most . . . concerning factor with regard to whether or not this young man should remain in the adult system" establishes the unacceptable possibility that the court "rest[ed] its decision entirely on the nature of the offenses charged against Mr. Davis (and the perceived public safety risk), and did not consider and/or afford proper weight to his amenability to rehabilitation." Urging us to conclude that a limited remand is necessary to rule out the possibility that the motion court gave undue weight to the nature of the offenses, Davis cites *In re Johnson*, 17 Md. App. 705, 712 (1973), a case in which this Court reversed the juvenile court's waiver decision

because we concluded that the judge was "unduly influenced by the 'nature of the offense' to the extent that the amenability of the appellant to rehabilitation was cast aside and not considered, or, if considered, was not afforded its proper weight."

The State acknowledges that "the court's comments reflect its determination that the [amenability] factor was outweighed by 'the nature of the alleged crime' CP § 4-202(d)(4), and 'public safety.' CP § 4-202(d)(5)." But, the State contends, Davis's "reliance on *Johnson* is misplaced, because the circumstances of that case are legally and factually inapposite[.]" We agree with the State that *Johnson* does not compel us to remand this case for a new transfer hearing.

In *Johnson*, 17 Md. App. at 709-10, 713, this Court reversed a decision by a juvenile court to waive its jurisdiction over charges equivalent to delinquent manslaughter by motor vehicle. In that case, a sixteen-year-old honor student with no prior record borrowed her boyfriend's car, and lost control of the vehicle, with tragic results. *See id.* Johnson, who did not have a license, made a wide turn, and then accidentally stepped on the accelerator instead of the brake, causing the car to jump onto the sidewalk and strike three people, killing a two-year-old. *See id.* at 710. Johnson's boyfriend initially claimed he was driving but later implicated her. *See id*.

DJS acknowledged that Johnson was an "above average" student with "no conduct problem" and "the potential to be a productive citizen." *Id.* at 711. Her church pastor testified about her remorse and distress. *Id.* But the prosecutor urged the court to rule that "this charge is too serious to be tried in the juvenile court." *Id*. at 710.

The juvenile court granted the State's motion for a waiver to adult court, and provided this explanation:

> "It is a very difficult step for me to take because we have a young lady who has had a very credible record for herself. She has not been in any difficulty and she has done well in school and has been active in school activities, has been active in community activities, but I base my decision on her age, almost seventeen when this occurred, *but essentially on the very grievous nature of the offense*; the fact that there was this very tragic killing, the fact that the respondent used subterfuge, the responsibility for it, all of this is a tragedy of immense proportions as we all recognize. It is essentially because of this that I feel that this is not the appropriate tribunal for this matter." (Emphasis supplied [in *Johnson*].)

Id. at 711. The prosecutor then recommended that Ms. Johnson be "released on her own recognizance." *Id*. at 712.

On appeal, this Court reversed that decision to waive juvenile jurisdiction, holding that the juvenile court abused its discretion by failing "to consider sufficiently the appellant's 'amenability to treatment in any institution, facility, or programs available.'" *Id.* at 713. We explained:

> We think it apparent that the hearing judge was unduly influenced by the 'nature of the offense' to the extent that the amenability of the appellant to rehabilitation was cast aside and not considered, or, if considered, was not afforded its proper weight. The mere statement that the five legislative factors were considered by the hearing judge does not divest this Court of its right to determine whether *vel non* those factors were actually considered and properly weighed in relation to each other and relative to the legislative purpose. . . .
>
> We think it apparent from the 'Waiver Summary" and the testimony of Rev. Gill that the juvenile appellant is, if adjudged a delinquent child, an ideal subject for the rehabilitative measures available from the Department of Juvenile Services.

Id. at 712-13.

As the State asserts, *Johnson* is materially distinguishable on both the facts and the law. In contrast to the sixteen-year-old honor student who had had no prior contacts with the juvenile justice system in *Johnson*, Davis had had three prior contacts, resulting from burglaries and motor vehicle thefts, and the third contact occurred as a result of an offense committed "while he was under supervision." In contrast to the manslaughter by motor vehicle charges against Johnson, which fell within the juvenile court's original jurisdiction, the charges against Davis—attempted first degree murder, first degree assault, and use of a firearm to commit a crime of violence—fell within the circuit court's jurisdiction.

Even though Davis did not cause any death, he was charged with conduct that could have resulted in a murder. In *Johnson*, an inexperienced driver's accidental loss of control over a vehicle caused the tragic death of an innocent child, but that was clearly not part of the driver's plan. The home invaders in Davis's case, in contrast, planned and executed an armed home invasion designed to terrorize innocent victims. Davis and his accomplices were charged with breaking into a home while wearing ski masks and brandishing assault rifles, while the victims were sleeping, firing shots in the house, attacking the homeowners in their bedroom, and beating the male homeowner with the butt of a rifle.

We view the facts and the conclusion of this Court in *Gaines*, 201 Md. App. at 19-21, more pertinent to our review of the motion court's denial of the motion to transfer Davis's case. In *Gaines*, we affirmed the denial of a reverse waiver on charges of first degree assault and armed robbery. Chief Judge Peter B. Krauser wrote:

> [T]he crime charged in *Johnson*, manslaughter by automobile, albeit a very serious offense, pales in comparison to the crimes charged here, when we

> consider the conduct of the accused and not just the results of that conduct. Indeed, although the consequences of manslaughter are greater than those of the crimes charged in the instant case, manslaughter may, as in *Johnson*, involve less culpability than the crimes with which appellant was charged, as the mental state required for manslaughter is recklessness or gross negligence, whereas the crimes alleged in the instant case involve intentional wrongdoing.
>
> Not only is the degree of culpability alleged in the instant case far greater than that alleged in *Johnson*, the threat to public safety posed by appellant exceeds that posed by the juvenile in *Johnson*. The court, in weighing the threat to public safety, here, could properly weigh the possibility that a person who participates in a brazen daytime armed holdup is likely to engage in such activity in the future, if given the opportunity, whereas someone who commits manslaughter by automobile may be deemed less likely to repeat such behavior, at least under the circumstances in *Johnson*, where drugs and alcohol were not factors in what appeared to be a simple, but tragic, accident, resulting from a momentary loss of control over a vehicle.

Id. at 20-21.

This Court has pointed out: "Not all the factors need be given equal weight." *In re Bobby C.*, 48 Md. App. 249, 251 (1981). Here, as in *Gaines*, the motion court concluded that the offenses reflected a "disregard [for] the well-being and safety of others," and presented such a grave danger to these victims and to public safety that the "horrific" alleged conduct merited the heaviest weight *among* the statutory factors governing reverse waiver. 201 Md. App. at 21. As we said in *Gaines*:

> We discern no abuse of discretion in the circuit court's weighing of the statutory factors, and its ruling on appellant's reverse waiver motion was certainly not "well removed from any center mark imagined by [us]," nor was it "beyond the fringe of what [we] deem[ ] minimally acceptable." *North v. North*, 102 Md. App. 1, 14, 648 A.2d 1025 (1994) (defining abuse of discretion).

Id.

Age

In his final challenge, Davis contends that the motion court committed legal error "in *only* considering [his] age at the time of the transfer hearing, failing to consider whether he was less morally culpable and more amenable to rehabilitation because he was barely 16 at the time of the offense." In support, Davis points to the following colloquy between court and counsel at the outset of closing argument:

> [DEFENSE COUNSEL]: So, . . . Your Honor, as you heard, Howard is still 16 years old. He was – had just turned 16 in two weeks before the incident occurred. This – so looking at, you know, the age – the factor of his age, he's certainly – would be on the lower end of the, you know, age –
>
> THE COURT: Well, is it –
>
> [DEFENSE COUNSEL]: – of juvenile –
>
> THE COURT: -- his age [as] of the offense? Or now?
>
> [DEFENSE COUNSEL]: Well, I think that it would be his age at the time of the offense for making a determination about –
>
> THE COURT: Any legal authority for that?
>
> [DEFENSE COUNSEL]: Well, Your Honor, –
>
> THE COURT: Because he –
>
> [DEFENSE COUNSEL]: – I don't know –
>
> THE COURT: – a wouldn't be –
>
> [DEFENSE COUNSEL]: – that there's –
>
> THE COURT: – placed –
>
> [DEFENSE COUNSEL]: – any legal authority for either side. I think –

THE COURT: There is?

[DEFENSE COUNSEL]: Well, – so, the age – and you're saying –

THE COURT: Because he's not –

[DEFENSE COUNSEL]: – the age –

THE COURT: – 16 now.

[DEFENSE COUNSEL]: – at the time – well, he's still 16 right now.

THE COURT: Oh. Okay. But he's almost 17. I mean, – in other words, –

[DEFENSE COUNSEL]: Yeah. He's –

THE COURT: – older than he was at the time he committed the offense. **And my question to you is, what's the relevant age for the Court to consider?**

[DEFENSE COUNSEL]: Well, I think –

THE COURT: **At the time of the offense? Or now?**

[DEFENSE COUNSEL]: Okay. So, if you're **– now. Considering his age now, though, he still only 16 and 10 months.** He's on the lower side of juvenile – or of the age of juveniles that are charged as adults in a case like this. I mean, he was 16 two weeks – on – **my only point is**, is that I don't know that this would have been um, an issue if it would have happened when he was 15. **He would have just turned 16 two weeks prior.** So, –

THE COURT: **Oh. I hear you**.

[DEFENSE COUNSEL]: – he's, he's 16 and 10 months now.

THE COURT: **Or the, the State would be asking for the transfer** –

[DEFENSE COUNSEL]: **Right.**

THE COURT: – as opposed to you.

> [DEFENSE COUNSEL]: He's 16 and 10 months now. He certainly would be able to benefit from services for close to – for at least another 4 years – 4 years and 2 months, to be exact. He has had the benefit of, I guess if you wanna call whatever services have been available at the Hickey School, because he's availed himself of all those services. He – the physical and mental condition of Howard – so, I would say that the age certainly is a factor that would weigh in Howard's favor for a transfer.

Davis acknowledges that the motion court "was entitled to consider [his] age at the time of the transfer hearing to the extent that it informed the availability of juvenile services." Nevertheless, he argues, the court failed to consider his age at the time of the commission of the alleged offenses, which "deprived [him] of *full consideration* of the mitigating effect of his youth, which warrants a new transfer hearing."

The State asserts that there are three problems with Davis's argument. First, Davis waived his complaint by arguing to the motion court that his age at the time of the hearing was "the 'relevant age' to consider[.]" Second, even though the age of a juvenile at the time of the charged offense determines jurisdiction, the statute governing the reverse waiver—CP § 4-202(d)(1)—directs only that the court shall consider "the age of the child[,]" without specifying that the court may not also consider the age at the time of the reverse waiver hearing. Third, in any event, the record shows that "the motions court did, in fact, consider Davis's age at the time of the offense."

We agree that the motion court complied with the statutory requirement that it consider Davis's age—both at the time of the home invasion and at the time of the reverse waiver hearing. As the excerpted colloquy and ruling establishes, the court and defense counsel recognized that both time frames had relevance.

We do not agree with Davis's assertion that the motion court "disregard[ed]" the specific age of Davis at the time of the offense. The hearing judge expressly stated that Davis's age at the time of the offense – sixteen years and two weeks – was jurisdictionally determinative. *See* CJP § 3-8A-03(d)(1) & (d)(4). In ruling on the motion, the judge also observed that there had been expert testimony "that kids are more impulsive . . . and certainly, most of that has to do with brain development." But the court also pointed out that "the vast majority of teenagers don't commit home invasion and attempted murder in spite of their impulsivity." Furthermore, the court found that "when this young man is in custody, he does well, . . . but when he's not in custody he has committed . . . a very grave, violent offense."

Based on this record, we are satisfied that the court adequately considered Davis's age at the time of the offense, and also appropriately considered Davis's age at the time of the reverse waiver hearing after defense counsel pointed out its relevance. During the same colloquy regarding Davis's age, defense counsel argued that, as of that hearing date, Davis "would be able to benefit from services for close to – for at least another 4 years – 4 years and 2 months, to be exact[,]" adding that, for this reason, "the age certainly is a factor that would weigh in Howard's favor for a transfer." In ruling on the motion, the court credited the information that Davis would "be turning 17 in March[,]" that "he would be eligible for behavioral modification[,]" and that he "could [b]e held in a secure facility[.]" Such consideration of Davis's age at the time of the reverse waiver hearing was appropriate in weighing the statutory factors, including his amenability to treatment. We conclude that

the court did not erroneously fail to adequately consider Davis's age at the time of the offense, and did not abuse its discretion in considering his age as of the date of the hearing.

CONCLUSION

For these reasons, we are not persuaded this is one of the rare cases warranting reversal of the denial of a reverse waiver under CP § 4-202.

JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFRMED. COSTS TO BE PAID BY APPELLANT.