Circuit Court for Montgomery County
Case No. 84377C

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2310

September Term, 2023

AARON JACOB GOLDFARB

v.

STATE OF MARYLAND

Nazarian,
Leahy,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: August 4, 2025

Aaron Goldfarb pleaded guilty to the first-degree murder of Kirill Varnovatyy. Both were minors at the time. Mr. Goldfarb was sentenced to life imprisonment. Over twenty years later, Mr. Goldfarb, at thirty-nine years of age, filed a motion to reduce his sentence. The Circuit Court for Montgomery County held a hearing and denied his motion. He appeals and we affirm.

I. BACKGROUND

A. Factual Background

1. The underlying offense

Mr. Goldfarb pleaded guilty to first-degree murder in connection with the death of Mr. Varnovatyy and was sentenced to life in prison. At the time of the crime, Mr. Goldfarb and Mr. Varnovatyy were both fifteen years of age.

On September 7, 1998, Joseph Morrongiello and Mr. Goldfarb went to Mr. Varnovatyy's home in Gaithersburg. Once there, they convinced Mr. Varnovatyy to leave with them and the three traveled in a silver Camry to an area near Thurgood Marshall Elementary School. Mr. Morrongiello drove and, upon arriving at the school, parked the Camry near the basketball courts. The individuals then met up with Zachary Marshall and walked down a path behind the school.

Although Mr. Varnovatyy thought that the individuals would be going down the path to drink beer and socialize, in reality, Messrs. Goldfarb and Marshall wanted to beat him up. They wanted to do this because they believed that one of Mr. Varnovatyy's friends had sold $40 of oregano to them, claiming that it was really marijuana. Messrs. Morrongiello, Goldfarb, and Marshall began to attack Mr. Varnovatyy. As they attacked,

Mr. Varnovatyy lapsed in and out of consciousness. At one point, Mr. Goldfarb struck Mr. Varnovatyy over the head with a rock. The victim began to beg his attackers to stop. He promised them that he would not tell the police about the attack. The three then stopped and began to walk away.

As they were walking away, Mr. Goldfarb said, "I can't leave, we can't leave him like that." Mr. Marshall heard this and handed Mr. Goldfarb a switchblade knife. From there, Mr. Goldfarb returned to Mr. Varnovatyy, who was bleeding. Messrs. Morrongiello and Marshall stayed back a short distance, then returned about ten to fifteen minutes later to where Messrs. Goldfarb and Varnovatyy were. There, Mr. Goldfarb stated, "I can't do it, he keeps moving around." At that point, he pulled out the switchblade. Mr. Varnovatyy begged again, crying, "Please don't kill me." Messrs. Morrongiello, Goldfarb, and Marshall led Mr. Varnovatyy to a secluded path, instructed him to remain silent until they reached a cement drainpipe sewage area at the creek situated at the bottom of the hill and deep within the woods. During the walk, Mr. Morrongiello told Mr. Varnovatyy, "Don't worry, they're not going to do anything."

The three individuals told Mr. Varnovatyy to sit down, not to move, and to begin counting out loud. Mr. Marshall then struck Mr. Varnovatyy over the head with a piece of wood and knocked him over. Mr. Goldfarb then stabbed Mr. Varnovatyy with the switchblade. Mr. Varnovatyy screamed, "Don't burn me," and tried to push Mr. Goldfarb away. Mr. Morrongiello held Mr. Varnovatyy's arm back as Mr. Goldfarb continued to stab him. He did so repeatedly, at one point, even stabbing Mr. Morrongiello in the arm.

Mr. Varnovatyy died.

Messrs. Morrongiello, Goldfarb, and Marshall washed their hands off in the creek. They left the scene in the silver Camry, this time with Mr. Marshall driving, and arrived at Mr. Goldfarb's residence. There, Messrs. Morrongiello and Goldfarb burned their clothes on the grill in Mr. Goldfarb's backyard. The next day, Messrs. Goldfarb and Marshall took a bed sheet from Mr. Goldfarb's bed, returned to the scene, and attempted to wrap Mr. Varnovatyy's body in the sheet. They threw his body further down the large concrete drain.

On September 23, 1998, Montgomery County Police were called to Quince Orchard Creek Park, where two individuals riding dirt bikes had discovered a body in the creek. Officers located the body and contacted the Major Crimes Division of the Montgomery County Police Department ("MCPD"). Detectives Paula Hamel and Anderson[1] responded to the scene with an evidence technician. They identified the body as that of a decomposed white male lying on his stomach in the creek. The decedent was wearing dark jeans with a white stripe on the side of each leg and tennis shoes, but not wearing a shirt. The detectives also identified two sheets, a solid white sheet partially draped over the cadaver and a patterned sheet found next to the legs of the decedent.

Law enforcement did not find any identification on or around the decedent. But they did find trauma to several locations on the decedent's head, cutting injuries to his right shoulder, and what appeared as partial decapitation of the neck and head. They also identified massive decomposition and insect infestation. The officers photographed the

[1] The record did not reveal this detective's first name.

scene and the decedent and conducted interviews at the scene. They learned that several students from nearby schools had seen posters around advertising a reward for information on a missing fifteen-year-old. The students believed that the missing teenager was Mr. Varnovatyy.

Officers then contacted the Youth Services Investigation Division of the MCPD and learned that Mr. Varnovatyy's parents had reported him missing on September 7, 1998. He was last seen wearing black baggy jeans and a gray t-shirt. Officers made their way to the Varnovatyy residence and learned that when Mr. Varnovatyy's parents last saw him, he was wearing black jeans with a white stripe on the side of each leg and dark suede tennis shoes. The parents also informed the officers that Mr. Varnovatyy carried a pager, although they, along with his friends, had been unable to reach him on that pager. Finally, the parents told the officers that while neither of them was home when Mr. Varnovatyy left their house on September 7, 1998, his grandmother was home. Mr. Varnovatyy told his grandmother that he would be back home in fifteen minutes and left with two white males, Messrs. Morrongiello and Goldfarb. He did not return.

The medical examiner determined that the body the officers found on September 23, 1998, was indeed Mr. Varnovatyy. The examiner ruled the cause of death as homicide. Mr. Varnovatyy was killed by blunt force injuries to the head and twenty-eight stab wounds. The blunt force injury pattern was consistent with repetitive strikes to the head—at least four times—with a blunt object. The medical examiner also identified that some of the cuts on Mr. Varnovatyy's hands were consistent with someone attempting to defend

themselves from the attack.

Officers executed a search warrant on Mr. Goldfarb's residence on February 11, 1999. They seized a fitted bed sheet with the same pattern as the one found next to Mr. Varnovatyy's body and ashes from the barbecue grill that were consistent with burned clothing. Mr. Goldfarb was arrested that same day. A month later, a grand jury indicted him. He pleaded guilty to first-degree murder and was sentenced to life in prison.

B. Procedural Background

1. The motion for a sentence reduction

Mr. Goldfarb has served more than twenty years against his sentence. On August 17, 2022, he filed a motion to reduce his sentence under the Juvenile Restoration Act ("JUVRA"), Md. Code (2001, 2018 Repl. Vol., Supp. 2024), § 8-110(b)(1) of the Criminal Procedure Article, and requested a hearing. The court held a hearing on November 3, 2023. Mr. Goldfarb offered testimony from James Fleming, Ph.D., whom the court accepted as an expert in forensic psychology, and Rachel Hettleman, a therapist and mitigation specialist. The court also received various exhibits, then permitted Mr. Goldfarb's mother, sister, and grandfather to address the court. The State's case relied solely on Detective Hamel's testimony. After the State rested, the court permitted Mr. Goldfarb to allocute, then took the matter under advisement.

On January 4, 2024, the court denied Mr. Goldfarb's motion for a sentence reduction. The court issued a written opinion that walked through the eleven CP § 8-110(d) factors, stating its findings under each factor. The court concluded with the denial of Mr. Goldfarb's motion. Mr. Goldfarb noted a timely appeal from that order. We will discuss

the court's findings and conclusions in greater detail in the Discussion.

II. DISCUSSION

Mr. Goldfarb argues that the circuit court misinterpreted and misapplied Section 8-110(d) when denying his motion for a sentence reduction. He points specifically to factors four and seven and contends that the court failed to give them appropriate weight. The State, in response, asserts *first* that the denial of this motion is not appealable. Should we disagree, it asserts *second* that the court exercised its discretion correctly when considering the factors under CP § 8-110(d). We disagree with the State that Mr. Goldfarb's issues are not appealable but agree that the court did not abuse its discretion in denying his motion to modify his sentence.

A. This Court's Recent Case Law Permits These Issues On Appeal, As The Denial Of A JUVRA Motion Is An Appealable Final Order.

Before we get to the JUVRA-factor analysis, we must address the State's contention that this judgment isn't appealable. Generally, a final judgment from the circuit court is appealable under Md. Code (1974, 2020 Repl. Vol.), § 12-301 of the Courts and Judicial Proceedings Article ("CJP"). In criminal cases, a final judgment occurs when there is a verdict and either the announcement or suspension of a sentence. *Hoile v. State*, 404 Md. 591, 612 (2008). Citing *Johnson v. State*, 258 Md. App. 71 (2023) and *Sexton v. State*, 258 Md. App. 525 (2023), though, the State contends that a denial of a JUVRA motion is not appealable. The State argues that those cases differentiated between a circuit court correcting a sentence based on a legal error, which is appealable, and a motion to reconsider a sentence, which is purely discretionary and not appealable.

Both this Court and our Supreme Court, though, have settled this question. In *Trimble v. State*, 262 Md. App. 452 (2024), *aff'd*, __ Md. ___, No. 28, Sept. Term 2024 (filed July 17, 2025), the State filed a motion to dismiss an appeal from a judgment denying a JUVRA sentence modification on the grounds that "a JUVRA motion for sentence reduction is only reviewable if the circuit court denied the motion based upon a lack of authority to modify." *Id.* at 472–73. In response, Mr. Trimble raised *Johnson* and *Sexton* to support his position that motions alleging an error of law committed by the circuit court are appealable, and we rejected the State's argument to the contrary. *Id.* We reasoned that because the appellant's primary contentions were that the circuit court "improperly interpreted and applied CP Section 8-110 . . . under our precedent, the circuit court's denial of the JUVRA motion is an appealable final order because it was based upon an alleged error of law." *Id.* at 473. The Supreme Court granted *certiorari* and affirmed the denial of Mr. Trimble's motion. *Trimble v. State*, __ Md. ___, No. 28, Sept. Term 2024, slip op. at 2–4 (filed July 17, 2025). The State didn't renew its motion to dismiss in the Supreme Court but the Court acknowledged that, at the very least, individuals have the right to appeal an order denying a motion for reduction of sentence under CP § 8-110 when the challenge to the denial involves questions of law. *Id.* at 18–19 n.20; *see id.* ("Maryland courts have not squarely addressed whether defendants have a right to appeal generally from any order denying a motion for reduction of sentence under JUVRA. We have, however, previously explained that there is a distinction between a sentence based upon an error of law and a sentence that is based upon a matter entirely committed to the circuit

court's discretion. *See Hoile*, 404 Md. at 617. The State has not renewed its motion to dismiss, and we agree that our analysis in *Hoile* controls. We need not decide whether an individual has a right to appeal an order denying a motion for reduction of sentence under CP § 8-110 when that appeal does not involve questions of law.").

In this regard, Mr. Goldfarb's appeal is identical to *Trimble*. This appeal arose from the denial of his JUVRA motion. His primary contention on appeal is that "The Circuit Court Misconstrued And Misapplied Criminal Procedure Article § 8-110," the same form of error identified in *Trimble*. Whether we agree in the end that the circuit court erred, Mr. Goldfarb's appeal in this case is "based upon an alleged error of law," and we will address it.

B. Because The Circuit Court Considered All Factors Under Section 8-110(d) And Applied The Correct Legal Standards, It Exercised Its Discretion Appropriately In Denying Mr. Goldfarb's Motion.

Mr. Goldfarb argues that the circuit court misapplied the fourth and seventh factors of CP § 8-110(d) in denying his motion to modify his sentence. The State responds that the circuit court considered appropriately all that it was required to and exercised its discretion appropriately. We understand why Mr. Goldfarb finds certain elements of the court's reasoning frustrating, but we agree with the State that the court's decision fell within its discretion.

Section 8-110(c) allows a court to "reduce the duration of a sentence imposed on an individual for an offense committed when the individual was a minor . . . ." The court may do so upon determining that: "(1) the individual is not a danger to the public; and (2) the

interests of justice will be better served by a reduced sentence." CP § 8-110(c)(1)–(2). "These are the ultimate criteria that a movant must establish to be entitled to a reduced sentence." *Trimble*, slip op. at 5. To determine whether each criterion was met, the General Assembly has created a test for JUVRA motions, requiring courts to consider the following factors:

> (1) the individual's age at the time of the offense;
>
> (2) the nature of the offense and the history and characteristics of the individual;
>
> (3) whether the individual has substantially complied with the rules of the institution in which the individual has been confined;
>
> (4) whether the individual has completed an educational, vocational, or other program;
>
> (5) whether the individual has demonstrated maturity, rehabilitation, and fitness to reenter society sufficient to justify a sentence reduction;
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> (6) any statement offered by a victim or a victim's representative;
>
> (7) any report of a physical, mental, or behavioral examination of the individual conducted by a health professional;
>
> (8) the individual's family and community circumstances at the time of the offense, including any history of trauma, abuse, or involvement in the child welfare system;
>
> (9) the extent of the individual's role in the offense and whether and to what extent an adult was involved in the offense;
>
> (10) the diminished culpability of a juvenile as compared to an adult, including an inability to fully appreciate risks and consequences; and
>
> (11) any other factor the court deems relevant.

CP § 8-110(d). "The court's decision to grant or deny the motion must be made in writing and must address all factors." *Trimble*, slip op at 6; *Sexton*, 258 Md. App. at 530

("Regardless of whether the court decides to grant or deny the motion to reduce the duration of a sentence, it must issue its decision in writing and address the factors listed in subsection 8-110(d)."); CP § 8-110(e)(1)–(2) ("The court shall issue its decision to grant or deny a motion to reduce the duration of a sentence in writing . . . [and] address the factors listed in subsection (d) of this section.").

"Under JUVRA, the decision to grant or deny a motion for reduction of sentence under CP § 8-110 generally rests in the discretion of the circuit court upon consideration of the enumerated factors." *Trimble*, slip op. at 20; *Sexton*, 258 Md. App. at 541. Although that standard is deferential, "the circuit court's discretion is tempered by the requirement that the court apply the 'correct legal standards[.]'" *Id.* (*quoting Sexton*, 258 Md. App. at 541). Should the circuit court fail to apply the correct legal standards, it abuses its discretion. *Id.* (citation omitted). We are mindful that when construing a circuit court's written decision concerning a motion for a sentence reduction, the circuit court "'is not obligated to recount every detail of its preceding analysis, ultimately resolve every dispute of fact, or restate the weight ascribed to every factor.'" *Trimble*, slip op. at 22 (*quoting Bishop v. United States*, 310 A.3d 629, 648 (D.C. 2024)). All that is required from the court's findings is that the court considered adequately "each of the ten enumerated factors, and any other factor that the court determined was relevant, and 'clearly state[d] the critical facts and reasons supporting its dangerousness and interests-of-justice analyses, and those facts and reasons are supported by the record.'" *Id.* Should the court do so, it will not have abused its discretion. *Id.* And whether "the circuit court properly construed and applied CP

§ 8-110(d) is a question of law that we review *de novo*." *Sexton*, 258 Md. App. at 542. Hence, "appellate review of a grant or denial of a Section 8-110 motion for sentence reduction is based upon proper application of the factors set forth in Section 8-110(d)." *Trimble*, 262 Md. App. at 462.

Mr. Goldfarb doesn't dispute that the circuit court assessed each factor and issued its decision in writing, as the statute requires. His contentions focus on how the court addressed two factors, CP § 8-110(d)(4) and (7), and more to the point, the weight the court ascribed to different pieces of evidence in the course of its finding that Mr. Goldfarb hadn't, in its view, satisfied those factors.

1. The court did not err in its consideration of the fourth factor of Section 8-110(d).

The fourth factor under Section 8-110(d) required the court to consider "whether [Mr. Goldfarb] has completed an educational, vocational, or other program." In assessing this factor, the court found that Mr. Goldfarb had engaged in multiple programs, but only recently began cognitive programming:

> [Mr.] Goldfarb achieved his GED while incarcerated. As of late, [Mr.] Goldfarb has been involved in multiple educational and vocational programs, including Alternatives to Violence Program, Taking Chance on Change, Decision-Making for Change, and Re-Entry Essentials. However, [Mr.] Goldfarb had not completed any cognitive programming to address his behavioral and psychological issues until 2023.

In his brief, Mr. Goldfarb argues that the circuit court erred under this factor by reading the statute to require "that Mr. Goldfarb (1) complete more than one program or (2) demonstrate that he completed specific programming, regardless of availability . . . ."

And so, he contends, the court construed this factor against him, whereas the "correct application" of this statute required this factor to weigh in Mr. Goldfarb's favor.

The circuit court did consider the various programs Mr. Goldfarb had completed, namely, the Alternatives to Violence Program, the Taking a Chance on Change program, the Decision-Making for Change Program, and the Re-Entry Essentials program. Mr. Goldfarb focuses on the court's reference to his need to participate in more than one program. But nothing in the statute defines a particular program or number of programs an individual must take to have the factor weigh in their favor. The statute provides examples of programs the individual may take and doesn't prescribe or limit the number or type of programs. *See* CP § 8-110(d)(4) ("[W]hether the individual has completed an educational, vocational, *or other program*." (emphasis added)); *see also Trimble*, slip op. at 33 ("There is nothing in the text that reflects, however, that the General Assembly intended for a court to weigh the enumerated factors against one another or to give any special consideration to . . . *any factor*, or even instructs that a court must weigh the factors, for that matter."). And for good reason. Each individual who might file a modification motion is different, as are the crime(s) for which they were convicted and the circumstances surrounding their crime and the time since their conviction. *Trimble*, slip op. at 29–30 ("The circuit court's resolution of a JUVRA motion is the epitome of a case-specific question."). The General Assembly afforded courts broad discretion when considering these JUVRA motions to address each situation accordingly. "As such, no two circuit court judges are likely to view in exactly the same manner a particular constellation of the factors contained in CP

§ 8-110(d). Thus, we expect that different judges will use different terms to express their consideration, as required under CP § 8-110(d)." *Id.* at 30.

Mr. Goldfarb argues that the court erred in interpreting the statute to require the court to find that he completed a specific program without regard to whether that program was available to him. We don't read the circuit court's opinion to have held against him his failure to complete programs that aren't available. The court found that Mr. Goldfarb needed to address his behavioral and psychological issues through cognitive programming. The evidence before the court included Mr. Goldfarb's Parole Hearing Case Management Recommendation, in which the parole board stated that Mr. Goldfarb had not "taken advantage of available [Department of Public Safety and Correctional Services] programming during this incarceration." When commenting on the particular program that Mr. Goldfarb had yet to take, the parole board stated that Mr. Goldfarb was eligible for and "[w]ould benefit from *cognitive programming*." (emphasis added). That recommendation was from 2017.

Fast forward six years to the JUVRA hearing and the court's denial of Mr. Goldfarb's motion. The court stated that Mr. Goldfarb had only started the cognitive programming in 2023. This was important to the court, which believed that cognitive programming would address Mr. Goldfarb's psychological and behavioral needs. That Mr. Goldfarb had waited over two decades to begin that programming was before the court; as the parole board noted, the programming was available, but he had yet to enroll in it. Again, this is not the court interpreting the factor to require this programming for each case.

Instead, in Mr. Goldfarb's particular case, the court identified the programming it deemed important for him to complete in order for him to satisfy the criteria for a sentence modification. We cannot say that on such a record—given the specific deficiencies identified and the evidence supporting them—that the court abused its discretion in so finding.

Mr. Goldfarb argues here that he did participate in cognitive programming through programs such as "Cognitive Behavioral Training for Depression, Taking a Chance on Change, and Thinking and Decision-Making for Change" and that he had earned his GED. Dr. Fleming stated that at the time he evaluated Mr. Goldfarb, in March and April 2023, Mr. Goldfarb had just finished the Taking a Chance on Change program. He noted as well that Mr. Goldfarb had almost completed the Thinking and Decision-Making for Change program and had only just begun the Cognitive Behavioral Training for Depression. Once Mr. Goldfarb completed that program, he planned to begin the Communication and Relation and Parenting Skills program. But as the court noted when assessing CP § 8-110(d)(5), and which Mr. Goldfarb doesn't dispute, he only began cognitive programming in 2023. This also was on the parole board's mind when it noted that Mr. Goldfarb had not started that programming in 2017, again, something he doesn't dispute. And the board recognized then as well that Mr. Goldfarb had completed his GED in 2017. To be sure, the parole board's recommendation is not governing authority on this question. It's relevant here only to highlight the evidence before the court deciding the JUVRA motion, namely, that the programming the circuit court referenced was available since at

least 2017 and that Mr. Goldfarb had not taken advantage of it earlier. This is a discretionary decision that involves careful consideration of the evidence, and we don't substitute our judgment for that of the circuit court. *See Trimble*, slip op. at 39 ("[T]he circuit court, as the factfinder in this case, was vested with the discretion to evaluate the evidence as it saw fit."); *Trimble*, 262 Md. App. at 471 ("[T]he circuit court has great discretion in considering a JUVRA motion to reduce a sentence, particularly where there is conflicting evidence.").

Mr. Goldfarb argues as well that the circuit court denied him an opportunity for a meaningful release, as JUVRA requires. He draws this language from *Farmer v. State*, 481 Md. 203 (2022), and related cases from the Supreme Court of the United States. Those cases recognize that under the Eighth Amendment of the United States Constitution, "most juvenile offenders must be afforded a 'meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation.'" *Farmer*, 481 Md. at 215 (*quoting Graham v. Florida*, 560 U.S. 48, 75 (2010)). And so, he asserts, the court should have identified the cognitive programming it expected him to complete to afford him such a meaningful opportunity. We disagree.

First, Mr. Goldfarb is not left to speculate about the programs he should participate in. The court was specific, at least in the category of programs, it concluded that Mr. Goldfarb needed: cognitive programming. The court also recognized that Mr. Goldfarb had begun cognitive programming—the issue was less about which cognitive programming and more about how long Mr. Goldfarb had engaged in cognitive programming and

whether he had completed enough to satisfy the standard for a sentence modification. *Second*, and more to the point, the relevant programming had been available since at least 2017, and Mr. Goldfarb was eligible for it. *Third*, Mr. Goldfarb still has a meaningful opportunity for release. As our Supreme Court stated in *Farmer*, the "'meaningful opportunity'" the Supreme Court spoke of may come "through the availability of parole." *Farmer*, 481 Md. at 215; *Sexton*, 258 Md. App. at 543 ("One way of providing a meaningful opportunity for release is 'by permitting juvenile homicide offenders to be considered for parole, rather than by resentencing them.'" (*quoting Montgomery v. Louisiana*, 577 U.S. 190, 212 (2016))); *Malvo v. State*, 481 Md. 72, 86 (2022) ("Relief sought under JUVRA is distinct from and does not affect other terms of the sentence, such as the offender's opportunity to seek parole."). Mr. Goldfarb will yet have opportunities for parole, so a JUVRA motion is not his only opportunity to be released. Nor is this his only or last opportunity to file a JUVRA motion. CP § 8-110(f) (permitting claimants who have had their motion for a sentence reduction denied two more opportunities to refile another sentence reduction motion after three years from the last denial); *Trimble*, slip op. at 6.

Courts don't consider the Section 8-110(d) factors in a vacuum, but as part of determining more broadly whether Mr. Goldfarb is (or is not) a danger to the public, CP § 8-110(c)(1), and whether reducing his sentence would better serve the interests of justice. CP § 8-110(c)(2); *Trimble*, slip op. at 27. The court here considered Section 8-110(d)(4) with these two overarching considerations in mind and did not construe the statute

erroneously as it applied it to Mr. Goldfarb's individual circumstances.

2. The court did not err in its consideration of the seventh factor of Section 8-110(d).

The seventh factor under Section 8-110(d)(7) required the court to consider "any report of a physical, mental, or behavioral examination of the individual conducted by a health professional." In considering this factor, the court relied on Dr. Fleming's report and found that Mr. Goldfarb had not treated his psychological issues adequately:

> [Mr. Goldfarb] received a psychological evaluation and risk assessment conducted by Dr. James Fleming, Ph.D. Dr. Fleming diagnosed [Mr. Goldfarb] with PTSD, Persistent Depressive Disorder, and Opiate Use Disorder. Dr. Fleming determined that [Mr.] Goldfarb's risk for future interpersonal violence is "Moderate" but "might be Low if his account of the circumstances of his recent opiate overdose is true." [Mr.] Goldfarb alleges that the November 2022 overdose was inadvertent; he claims that he was hiding a letter in his shoe after he agreed to deliver it to a coworker on behalf of another inmate. Unbeknownst to [Mr.] Goldfarb, the letter contained fentanyl, which he believes he absorbed through his foot. After being revived in his cell by prison staff, [Mr.] Goldfarb denied willingly taking the drug.
>
> Dr. Fleming's evaluation concluded that [Mr.] Goldfarb's involvement in [Mr.] Varnovatyy's murder was fueled by four factors, namely: reported sexual abuse by his father; PTSD and depression involving chronic anger as result of the abuse; use of drugs and alcohol to self-medicate his psychological issues; and association with "negative peers" who endorsed and participated in violence and antisocial behavior.
>
> There are concerns as to whether this evaluation supports the finding that [Mr.] Goldfarb poses a Moderate to Low risk of future interpersonal violence. Dr. Fleming reports that [Mr. Goldfarb] requires continuing treatment for his depression and PTSD using both medication and psychotherapy. Such treatment has not been regular nor extensive while [Mr.] Goldfarb has been incarcerated. The Court does not find that [Mr. Goldfarb] has adequately treated his psychological issues.

Mr. Goldfarb argues that this conclusion misapplied the factor, violated the Eighth Amendment, and contravened JUVRA's legislative purpose. He argues that because the Department of Public Safety and Correctional Services (the "DOC") didn't provide the intensive psychotherapy the court required of Mr. Goldfarb, he would never be able to satisfy the court's requirements. The State responds that the court relied on Dr. Fleming's report to conclude that Mr. Goldfarb still struggles with psychological and substance issues, as seen in his recent opiate use. The State adds that the court recognized properly that some of the psychiatric programs were unavailable at the DOC, but the cognitive programs were available, Mr. Goldfarb was eligible for them, and he had failed to participate in them until recently. Again, all that the JUVRA statute requires is that the circuit court consider the factors and issue its conclusions for each factor in writing. CP § 8-110(e). So long as the court applied the standards correctly, we won't upset its conclusions. *See Trimble*, slip op. at 30–31. And the court did so here.

Dr. Fleming's report was central to the court's conclusions. As the doctor noted, four factors influenced Mr. Goldfarb's crime: reported sexual abuse by his father; PTSD and depression involving chronic anger stemming from that abuse; drug and alcohol usage to self-medicate his psychological issues; and associations with negative peers who participated in violence and antisocial behavior. But the doctor said more. In ranking Mr. Goldfarb's risk for violence as moderate, the doctor found that Mr. Goldfarb's primary path to violence once more would be through illicit drugs because his drug behavior was a major factor in how and why he killed Mr. Varnovatyy:

> The primary path by which Mr. Goldfarb could again engage in interpersonal violence would be resumption of illicit drug use, especially opiate use. To procure illicit drugs the user must obtain significant funds to purchase them and, also, participate in a criminal milieu to get them. Those factors would leave him vulnerable to engaging in some form of crime to obtain the money and to participating in a milieu in which under-handed dealing and violence are common in the course of making purchases. Accordingly, he would be at greater risk for interpersonal violence. And broadly speaking, these circumstances are similar to the ones that led him to commit his instant offense.

Mr. Goldfarb didn't dispute his ongoing opiate addiction; indeed, he confessed to it. And the court considered both the fact of Mr. Goldfarb's addiction and the manner in which he had been addressing it. Early into his incarceration, Dr. Allen Brody, a psychiatrist, prescribed the antidepressant Zoloft and the sedative Trazodone to Mr. Goldfarb. But Mr. Goldfarb stopped taking those medications and opted to treat his depression himself using opiates, a factor that had influenced his crime. Although he asserted that the medication made him vulnerable in a dangerous prison environment, Dr. Fleming noted that Mr. Goldfarb still needed "continuing psychopharmacological treatment" and psychotherapy for his depression. The court credited this testimony and found that Mr. Goldfarb needed continuing treatment for his depression. Although the doctor notes that the DOC did not prescribe psychotropic medication to Mr. Goldfarb again until 2019, there is no indication that the DOC was unable to provide it earlier. The doctor also notes that in 2019 and in 2021, the renewal of this medication was delayed for months at a time. This was all before the circuit court, namely, that although the medication was prescribed initially to address Mr. Goldfarb's depression, he voluntarily stopped taking it.

Neither Mr. Goldfarb nor Dr. Fleming asserted that the medication at that time was delayed, nor that the antidepressant and sedative prescribed would not have left Mr. Goldfarb's depression unaddressed. Not only that, but Mr. Goldfarb, according to the doctor's report, stated that after he sought treatment from the DOC in 2019, that treatment "managed his depression and thus eliminated his need to self-medicate." Had he not self-medicated early on—a factor that influenced his crime—and instead continued with his prescribed medication regimen, he may have "managed his depression and thus eliminated his need to self-medicate" sooner.

Furthermore, Mr. Goldfarb had four infractions for positive urinalyses. The first two occurred on the same day, in July 2005, and were positive for heroin and cocaine, respectively. The next two were in 2019 and 2022. In fairness to Mr. Goldfarb, the first two incidents occurred early in his incarceration and several years passed before the latter two incidents. The latter two, however, involved opiates. This was an important factor for Dr. Fleming, who identified—and the circuit court noted in its findings—the centrality of drug use and behavior to the circumstances surrounding Mr. Goldfarb's crime.

The doctor also expressed concern that Mr. Goldfarb had overdosed (2022 overdose) on an opiate only four months before Dr. Fleming evaluated him. The 2022 overdose was especially concerning because Mr. Goldfarb essentially agreed to violate the institution's rules against delivering letters among inmates. *See* CP § 8-110(d)(3). Leading up to that overdose, an acquaintance had asked Mr. Goldfarb to deliver a letter to Mr. Goldfarb's coworker. He agreed. When Mr. Goldfarb arrived at his workplace, he saw that

it was closed and decided to return to his cell. But conscious that returning there meant that guards would subject him to a search and find the acquaintance's letter, Mr. Goldfarb hid the letter in his shoe to avoid detection. The next thing he remembered was medical staff reviving him—he had overdosed and was found unconscious with no pulse. Mr. Goldfarb contended that he did not overdose intentionally and that he thought the letter contained an opioid laced with fentanyl. But Dr. Fleming was unable to corroborate that recount of events.[2] And the aspect of this incident especially concerning for the doctor was Mr. Goldfarb's decision to break the institutional rule against passing letters amongst inmates, which to him indicated "an aspect of problematic judgment." The doctor noted that it was "concerning that [Mr. Goldfarb] did so after 23 years of incarceration."

With regard to the availability of psychotherapy, Mr. Goldfarb argues that the circuit court required him improperly to complete programming that is unavailable to him because the DOC does not provide it. In addition, he argues, the DOC's failure to provide such services violated Mr. Goldfarb's Due Process rights. The court found that Mr. Goldfarb required ongoing psychotherapy, just as Dr. Fleming stated. The doctor also stated that the more psychotherapy, "the better and, ideally, both individual and group treatment."

But as with the antidepressants first prescribed to Mr. Goldfarb, Dr. Brody provided Mr. Goldfarb regular individual therapy early into Mr. Goldfarb's detention. Dr. Fleming acknowledged that programming opportunities at the DOC were "extremely limited,

[2] Dr. Fleming noted that if Mr. Goldfarb's recollection was correct, Dr. Fleming would have evaluated Mr. Goldfarb as being at a low risk of violence. Regardless, the doctor was unable to corroborate that recollection.

especially for inmates with long sentences," but he didn't testify that such individual therapy was unavailable when he interviewed Mr. Goldfarb. And his report does not include any such assertion. As for the limited programming at the DOC, the doctor testified that he based that conclusion on his "last five years at Patuxent," which was from about 2011 to 2016, where he worked in the Patuxent Assessment Unit—a unit that "no longer exists . . . ." The circuit court received and considered this evidence and concluded that Mr. Goldfarb still "requires ongoing psychotherapy and cognitive programming . . . ." We cannot say that the court abused its discretion in reaching that conclusion on this record. *See Trimble*, 262 Md. App. at 471 ("We give due regard to the [fact finder's] finding of facts, its resolution of conflicting evidence, and, significantly, its opportunity to observe and assess the credibility of witnesses." (cleaned up) (*quoting Moye v. State*, 369 Md. 2, 12 (2002))).

A court considering a JUVRA motion determines whether the movant is not a danger to the public, CP § 8-110(c)(1), and whether reducing the movant's sentence would better serve the interests of justice. CP § 8-110(c)(2). In relying on Dr. Fleming's report, the court observed how some of the factors that influenced Mr. Goldfarb's crime were not addressed sufficiently. In addition, Dr. Fleming found Mr. Goldfarb to be at a moderate risk of future violence.[3] These issues were present at the time of the crime, during

[3] The doctor also stated that "prior to December 2019, [Mr. Goldfarb], per the record and his report, engaged in [opiate use] many times while incarcerated and did not

Continued . . .

incarceration, and even right before Dr. Fleming's visit. Although we understand Mr. Goldfarb's frustration that some of the programs the court cited were or are not available to him, the court ultimately had to decide whether Mr. Goldfarb was a danger to the public at the time of its decision. That is a discretionary call and, under the circumstances, we see no abuse of discretion in the court's conclusion that Mr. Goldfarb has not quite met the standard.

Finally, the statute required the court to consider the other factors as well, CP § 8-110(d), and the court did so. "Each of the remaining nine factors enumerated in Section 8-110(d) could contribute to the interests of justice determination in any given case, as could any enumerated factor a court deems relevant." *Trimble*, 262 Md. App. at 465. Although Mr. Goldfarb does not take issue with the court's handling of those factors, we note that the court addressed and considered each factor and issued its conclusions in writing.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. APPELLANT TO PAY COSTS.

engage in violence, so while the [chain of risky behavior] is necessary for future violence in this scenario it is not sufficient alone to have it occur."

But in the doctor's view, the fact that Mr. Goldfarb broke an institutional rule posed "another but less likely pathway to future interpersonal violence: Helping someone break rules can lead to unintended consequences, one of which is resentment in the person who asked for the help."