

IN THE SUPREME COURT OF MISSISSIPPI

NO. 2024-KA-01178-SCT

***CARLY MADISON GREGG a/k/a CARLEY
MADISON GREGG***

v.

STATE OF MISSISSIPPI

DATE OF JUDGMENT:	09/25/2024
TRIAL JUDGE:	HON. DEWEY KEY ARTHUR
TRIAL COURT ATTORNEYS:	BRIDGET RENEA TODD KIMBERLY MARIE PHILLIPS MICHAEL SHELTON SMITH, II KATHRYN WHITE NEWMAN KEVIN D. CAMP STANLEY CALEB COLEMAN JOHN MARTIN LASSITER NATALIE McCARTY RYAN MATTHEW BERRY JOHN K. BRAMLETT, JR. JOSHUA WAYNE STOVER
COURT FROM WHICH APPEALED:	RANKIN COUNTY CIRCUIT COURT
ATTORNEYS FOR APPELLANT:	KEVIN D. CAMP JAMES HOWARD MURPHY BRADLEY S. CLANTON LANCE O'NEAL MIXON
ATTORNEYS FOR APPELLEE:	KATHRYN WHITE NEWMAN OFFICE OF THE ATTORNEY GENERAL BY: ALLISON KAY HARTMAN LaDONNA C. HOLLAND
DISTRICT ATTORNEY:	JOHN K. BRAMLETT, JR.
NATURE OF THE CASE:	CRIMINAL - FELONY
DISPOSITION:	AFFIRMED - 08/20/2026
MOTION FOR REHEARING FILED:	

EN BANC.

COLEMAN, PRESIDING JUSTICE, FOR THE COURT:

¶1. Carly Madison Gregg shot and killed her mother, and she shot her stepfather, who survived. A Rankin County jury convicted Gregg of first degree murder, attempted murder, and tampering with evidence. The jury sentenced her to life imprisonment for the murder and attempted murder convictions, and the trial judge sentenced her to ten years for tampering with evidence. The sentences will run concurrently. Discerning no reversible error, the Court affirms the verdict and sentences.

FACTS

¶2. On March 19, 2024, Ashley Smylie and her fourteen-year-old daughter, Gregg, returned home from Northwest Rankin High School shortly before 4:00 p.m. The State's witness B.G., a friend of Gregg's, testified that Ashley had learned that day that Gregg had been using marijuana and a burner phone. The home's Wyze kitchen camera showed Ashley enter Gregg's bedroom and apparently search for vape-related items. It also showed Gregg moving in and out of the house with the dogs before reentering. The video then showed Gregg pause, go toward her parents' bedroom, return while concealing something behind her back, and move toward Gregg's bedroom. A gunshot was heard at approximately 4:14 p.m., Ashley screamed, and then two more shots were fired.

¶3. After the shots, the video showed that Gregg returned to the kitchen, picked up Ashley's phone, and while impersonating her mother, texted Heath Smylie, her stepfather, asking whether he was almost home. Gregg then removed the kitchen security camera and hid it in the refrigerator. She also contacted multiple friends, including B.G., T.G., S.K.R., and B.W., asking them to come to her house or saying that she needed help. B.G. testified

that, when he told Gregg not to hurt herself or anyone else, she responded that “it was too late.” T.G. testified that Gregg told him she had “fucked up” but would not tell him what had happened and told him not to call 911. B.W., a friend who came to the house after the shooting, testified that Gregg told her not to “freak out,” asked whether she had ever seen a dead body, and told her that her mother was in the bedroom if B.W. wanted to look. According to B.W., Gregg said that she had shot her mother three times and had three more shots for Heath when he came home.

¶4. When Heath arrived home at approximately 5:03 p.m., he entered through the garage door into the kitchen. Heath testified that a gun fired almost immediately as the door opened only a few inches. He struggled with Gregg over the gun, and two additional shots were fired. One shot struck Heath in the shoulder. Heath took the revolver from Gregg, and Gregg fled. Heath then found Ashley in Gregg’s bedroom with a towel over her face.

¶5. Deputy Hunter Lewis of the Rankin County Sheriff’s Office responded to the scene, found Heath distraught, and observed Ashley inside the home with no detectable pulse. Gregg was later found nearby by Deputy Tony Shack and taken into custody without incident.

¶6. The physical evidence presented was consistent with the State’s theory. Ashley had been shot three times in the face and head, and one shot showed stippling, indicating a close-range shot. The Taurus .357 revolver recovered from the scene contained one live round, meaning six rounds had been fired if the revolver had been fully loaded initially. Both of Gregg’s hands tested positive for gunshot-residue particles. DNA from the revolver’s

trigger produced a partial profile consistent with Gregg's DNA, and Ashley was excluded as a contributor to that trigger profile.

¶7. Gregg was indicted in the Rankin County Circuit Court for first degree murder, attempted murder, and tampering with physical evidence. The case was tried from September 16 through September 20, 2024.

¶8. Gregg's principal defense at trial was insanity. She did not seriously dispute that she shot Ashley and Heath; rather, she contended that, because of serious mental illness, dissociation, and possible medication effects, she did not know the nature and quality of her acts nor did she know that what she was doing was wrong.

¶9. Prior to the shooting, Gregg had been treated for depression and anxiety by Olivia Leber, a psychiatric mental-health nurse practitioner. Leber saw Gregg in January, February, and March 2024. She diagnosed Gregg with adjustment disorder with mixed anxiety and depressed mood and major depressive disorder, single episode, moderate. She first prescribed a 25 milligram dose of Zoloft, later increased the dose to 50 milligrams, and finally switched Gregg to a 5 milligram dose of Lexapro shortly before the shooting after Gregg reported feeling "like a zombie." Leber testified that Gregg denied suicidal ideation, homicidal ideation, auditory or visual hallucinations, and psychotic symptoms during treatment. However, she also testified that patients do not always disclose everything, and that if she had known Gregg was hearing voices, she would have reconsidered the diagnosis and considered an antipsychotic.

¶10. Rebecca Kirk, a licensed professional counselor, also saw Gregg weekly in the time

leading up to March 19 for a total of nine sessions. Kirk testified that Gregg discussed depression, anxiety, self-hatred, family stress, and difficulty opening up. Kirk also testified that, during the session the day before the shootings, Gregg appeared emotionally stable, did not report suicidal or homicidal thoughts, and did not report delusions, memory problems, or dissociation. Kirk believed Gregg loved her mother and was sensitive to her mother's feelings.

¶11. During her testimony, Kirk was asked about a note she made in the margin of her psychological records regarding the novel *Crime and Punishment*. She testified that Gregg had mentioned wanting to read it. The prosecutor asked Kirk to explain the plot of the novel, and the defense objected. After debate, the trial court overruled the objection, and Kirk was allowed to testify that *Crime and Punishment* was a novel about a “psychopath who lives in Russia” who murders a woman. Kirk testified that during a later session, Gregg told her that “she finished her reading.”

¶12. The defense called Dr. Andrew Clark, a former faculty member of Harvard Medical School who is a psychiatrist board certified in adult psychiatry, child and adolescent psychiatry, and forensic psychiatry. Dr. Clark interviewed Gregg after she was arrested and diagnosed her with Bipolar II disorder, depression, a mood disorder, and “other specified schizophrenia spectrum and related psychotic disorders.” He testified that Gregg's symptoms escalated in the period before March 19, that antidepressants can worsen bipolar instability and her mood disorder, and that Gregg's later jail records documented command auditory hallucinations. According to Dr. Clark, Gregg experienced an acute dissociative reaction on

March 19 triggered by psychiatric crisis and stress after her mother discovered the marijuana use. He ultimately opined that Gregg did not understand the nature and quality of her acts and could not appreciate right from wrong under the *M’Naghten* standard. *See M’Naghten’s Case*, (1843) 8 Eng. Rep. 718, 10 Clark & F. 200.

¶13. The State called to the stand two additional psychological witnesses, Dr. Amanda Gugliano and Dr. Jason Pickett. Dr. Gugliano, a forensic psychologist at Mississippi State Hospital, evaluated Gregg for competency. She found Gregg competent to stand trial but did not render a sanity opinion because medication effects were raised, and she believed a forensic psychiatrist should address that issue. Dr. Pickett, a board-certified psychiatrist and forensic psychiatrist, evaluated Gregg and testified that, even assuming the defense diagnoses, Gregg understood the nature, quality, and wrongfulness of her acts. Dr. Pickett relied heavily on the contemporaneous evidence: Gregg’s retrieving and concealing the gun, peeking around the corner, texting Heath from Ashley’s phone, hiding the camera, summoning friends without disclosing the shooting over the phone, telling T.G. not to call 911, and telling B.W. that she had three shots for Heath.

¶14. After the presentation of the evidence, the jury ultimately rejected Gregg’s insanity defense and found her guilty on all three counts. The case immediately proceeded to a sentencing phase. The trial court asked whether either side wished to call witnesses. Neither side did. Both sides moved to adopt and incorporate the guilt-phase record. The court instructed the jury to consider the *Miller* factors: Gregg’s chronological age; her family and home environment; the circumstances of the homicide offense; incompetencies associated

with youth; and the possibility of rehabilitation. *Miller v. Alabama*, 567 U.S. 460, 477 (2012).

¶15. The sentencing instructions then gave the jury choices. For Count I, first degree murder, Instruction SS-1 allowed the jury to sentence Gregg to “life imprisonment,” to “life imprisonment with the possibility of parole,” or to state that it was unable to fix punishment. For Count II, attempted murder, Instruction SS-2 used a similar framework, allowing “life imprisonment,” “life imprisonment with the possibility of parole,” or inability to fix punishment. During deliberations, the jury asked, “What is life in prison without parole? Years-wise.” The court responded that the jury had “received all the evidence in this case. Please continue your deliberations.”

¶16. The jury fixed punishment at life imprisonment on Count I, first degree murder, and life imprisonment on Count II, attempted murder. The trial court imposed a ten-year sentence on Count III, tampering with physical evidence. The sentencing order sentenced Gregg to “life imprisonment” for Counts I and II.

¶17. Gregg filed a motion for new trial, or in the alternative JNOV, and the trial court denied the post-trial motions. Gregg appeals and raises nine issues.

Errors in Sentencing

ISSUE I. The trial court committed reversible error by giving sentencing instructions as to Counts I and II that were improper under Mississippi Code Annotated Section 97-3-21(2)(b) (Supp. 2025) (amended effective July 1, 2024).

ISSUE II. Carly’s sentence of life imprisonment without parole as to Count II is categorically unconstitutional.

ISSUE III. The trial court erred by not conducting a *Miller* hearing to determine eligibility vel non for life with possibility of parole as to Count I.

ISSUE IV. The prosecutor made improper and highly prejudicial comments during closing arguments relating to parole eligibility.

ISSUE V. To the extent that Carly's sentence(s) is to be construed as LWOP as imposed by the jury, this sentence was against the overwhelming weight of the evidence and should be set aside.

Errors at Trial

ISSUE VI. The trial court committed reversible error by prospectively denying any requests for continuance without evaluating the circumstances that might arise during the proceedings.

ISSUE VII. The trial court erred by compelling psychiatric evaluations absent the findings required by MRCrP 12.2 and 17.4, thereby abusing its discretion and depriving her of a fair trial.

ISSUE VIII. The trial court erred when it allowed Rebecca Kirk to summarize the book *Crime and Punishment* over objection of Defendant.

ISSUE IX. Cumulative error requires reversal.

(Citation modified.)

STANDARD OF REVIEW

¶18. Questions of statutory interpretation are reviewed de novo. *Altman v. State*, 340 So. 3d 293, 294 (¶ 6) (Miss. 2022) (quoting *Tipton v. State*, 150 So. 3d 82, 84 (Miss. 2014)). Likewise, the legality of a sentence also is a question of law and, therefore, is reviewed de novo. *Howell v. State*, 358 So. 3d 613, 614 (¶ 5) (Miss. 2023) (quoting *Moore v. State*, 986 So. 2d 928, 932 (¶ 13) (Miss. 2008)). A sentence not authorized by statute is illegal as “no court may adjudge and sentence a defendant beyond its statutory authority to do so.” *Ward v. State*, 708 So. 2d 11, 14 (¶ 12) (Miss. 1998) (citing *Luckett v. State*, 582 So. 2d 428 (Miss.

1991), *overruled on other grounds by Bester v. State*, 188 So. 3d 526, 529 (Miss. 2016)).

¶19. Jury instructions are generally reviewed for abuse of discretion. *Stanfield v. State*, 269 So. 3d 1188, 1190 (¶ 15) (Miss. 2019) (quoting *Thomas v. State*, 249 So. 3d 331, 346 (¶ 49) (Miss. 2018)). “[T]he instructions actually given must be read as a whole. When so read, if the instructions fairly announce the law of the case and create no injustice, no reversible error will be found.” *Id.* at 1190 (¶ 15) (alteration in original) (internal quotation marks omitted) (quoting *Newell v. State*, 49 So. 3d 66, 73-74 (¶ 20) (Miss. 2010)). Additionally, the Court will “review the trial judge’s additional written instructions in response to a question from the jury for an abuse of discretion.” *Willie v. State*, 204 So. 3d 1268, 1276 (¶ 23) (Miss. 2016) (citing *Galloway v. State*, 122 So. 3d 614, 634 (¶ 36) (Miss. 2013)).

¶20. A trial court’s rulings on continuances, evidentiary matters, and mental examinations are reviewed for abuse of discretion. *Payton v. State*, 897 So. 2d 921, 931 (¶ 11) (Miss. 2003) (“The standard of review to grant or deny a motion for continuance is within the sound discretion of the trial court and will not be grounds for reversal unless shown to have resulted in manifest injustice.” (citing *Coleman v. State*, 697 So. 2d 777, 780 (Miss. 1997), *disagreed with by Dilworth v. State*, 909 So. 2d 731, 735 n.4 (Miss. 2005))); *Anderson v. State*, 62 So. 3d 927, 933 (¶ 13) (Miss. 2011) (“The standard of review for admission of evidence is abuse of discretion.” (citing *Hobgood v. State*, 926 So. 2d 847, 852 (Miss. 2006)); *Harden v. State*, 59 So. 3d 594, 603 (¶ 19) (Miss. 2011)).

DISCUSSION

I. Guilt-Phase Errors

A. The trial court's statements regarding continuances do not warrant reversal.

¶21. Gregg argues that the trial court committed reversible error by prospectively denying any continuance when it stated at an early hearing that “[t]his Court does not continue cases.”

In support of her argument, she relies on *Leonard v. Leonard*, 486 So. 2d 1240 (Miss. 1986), which cautioned that a court with an automatic policy that continuances “are not granted by this court under any circumstances” is not exercising discretion but “acting arbitrarily and capriciously[.]” *Id.* at 1241.

¶22. In *Leonard*, the Hinds County Chancery Court had a policy that “continuances from contempt matters are not granted by this court under any circumstances.” *Id.* The attorney for Celeste Leonard had a prior obligation to appear in Warren County County Court. *Id.* He filed a motion for continuance based on his conflict, and the court denied it based on its automatic policy. *Id.* On appeal, the Mississippi Supreme Court vacated the judgment of contempt and remanded. *Id.* at 1242.

¶23. The Rankin County Circuit Court’s language is in friction with the Court’s holding in *Leonard*. As the Court stated, a trial court may control its docket, and it may insist that parties act diligently, but a court should not announce a categorical rule that continuances will not be granted regardless of future circumstances because a court cannot know what the circumstances may be. Continuance rulings require case-specific discretion. A court should avoid language suggesting that calendar concerns will prevail over later-arising constitutional

or preparation concerns.

¶24. However, the record does not support reversal of the convictions. In *Leonard*, counsel filed and the trial court denied a motion for continuance. *Id.* at 1241. Here, Gregg never filed a motion for continuance. Because no continuance motion was presented and denied, there is no actual continuance ruling for the Court to review for abuse of discretion. See *Pitchford v. State*, 45 So. 3d 216, 232 (¶ 57) (Miss. 2010) (“The trial court cannot be held to err on an issue not presented to it for decision.” (citing *McCurdy v. State*, 511 So. 2d 148, 150 (Miss. 1987))).

¶25. Gregg responds that asking for a continuance would have been futile after the trial judge’s categorical statement. The argument has some equitable force, and it explains why the judge’s language should not be endorsed, but futility does not by itself establish reversible error. The problem is prejudice. When the Court reviews an unobjected-to error, we apply the plain error standard, which requires a determination that “the trial court has deviated from a legal rule, whether that error is plain, clear, or obvious, and whether that error has prejudiced the outcome of the trial.” *Swinney v. State*, 241 So. 3d 599, 606 (¶ 15) (Miss. 2018) (internal quotation mark omitted) (quoting *Conner v. State*, 138 So. 3d 143, 151 (¶ 19) (Miss. 2014)).

¶26. Gregg identifies the accelerated schedule, the mental-evaluation orders, and the complexity of the case, but she does not show how the outcome would have been different at trial had a continuance been granted. The defense presented an insanity defense through a highly qualified child-and-adolescent psychiatrist; the State presented rebuttal experts; and

the jury had before it extensive mental-health evidence.

¶27. Thus, on the record before us today, we hold that the trial court committed no reversible error on the issue. Trial courts should not employ blanket no-continuance policies, but the absence of a continuance motion, adverse ruling, and specific prejudice prevents reversal here.

B. The mental-evaluation order does not warrant reversal of the convictions.

¶28. On July 3, 2024, in response to the State’s motion, the trial court ordered Gregg to submit to a mental evaluation and *M’Naghten* analysis. The mental evaluation for competency to stand trial was ordered pursuant to Rule 12.2(a) of the Mississippi Rules of Criminal Procedure, and the *M’Naghten* analysis for sanity at the time of the crime was ordered pursuant to Rule 12.2(b) of the Mississippi Rules of Criminal Procedure.

¶29. Gregg argues that the trial court erred by ordering the evaluations before the defense had filed a formal Mississippi Rule of Criminal Procedure 17.4(b) notice of intent to rely on insanity and without the Rule 12.2 findings required for a competency evaluation. She frames the error as both procedural and constitutional, arguing that the orders compelled premature disclosure of defense strategy, gave the State an unfair expert advantage, and violated Fifth, Sixth, and Fourteenth Amendment protections.

¶30. The State responds that the claim is waived and meritless. The State avers that Gregg raised mental health early, retained experts, stated through counsel that she intended to raise *M’Naghten*, did not object to the State’s motion for evaluation, and later filed a notice of intent to rely on insanity. Specifically, Gregg filed a motion for assessment and evaluation

asking for a mental health evaluation on March 20, 2024 (the day after the murder), noted at the preliminary hearing on April 16, 2024 that “[b]ased on [her] fragile mental state . . . [her] fitness to stand trial will be at risk by the time we get to trial,” and disclosed at the bond hearing on June 4, 2024 that she was “undergoing psychiatric treatment.” The State further argues that the court had authority under Mississippi Rules of Criminal Procedure 12.2, 12.3, 16.1, and 17.4 to manage mental health issues and set deadlines and that any premature sequencing was mooted when Gregg ultimately relied on insanity at trial.

¶31. The trial court’s order cites “reasonable grounds to order . . . a mental evaluation and [M’Naghten] Analysis” pursuant to Rule 12.2(a). Rule 12.2(a) reads:

(a) Competency to Stand Trial or Be Sentenced. If at any time before or after indictment, the court, on its own motion or the motion of any party, has reasonable grounds to believe that the defendant is mentally incompetent, the court shall order the defendant to submit to a mental examination.

MRCrP 12.2(a). Rule 12.2(a) provides the trial court authority to order a competency evaluation based on its own judgment that there are reasonable grounds for one. Here, the defense gave the court multiple indications that Gregg’s mental health was a consideration. Thus, the judge did not abuse his discretion by ordering an evaluation for competency.

¶32. A mental examination for a defendant’s sanity at the time of the crime is different. Rule 12.2(b) contemplates a mental examination after the defendant has raised an insanity defense under Rule 17.4(b). It reads:

(b) Insanity Defense. If the defendant has timely raised a defense of insanity pursuant to Rule 17.4(b), the court, on its own motion or the motion of any party, may order the defendant to submit to a mental examination to investigate the defendant’s mental condition at the time of the offense.

MRCrP 12.2(b).

¶33. The State’s June 17, 2024, motion requesting mental evaluation acknowledged that Gregg had not yet satisfied the formal requirements for an insanity defense. The circuit court’s order on July 3, 2024, also stated that Gregg “may” raise an insanity defense, language that suggests the court was acting in anticipation of a defense rather than in response to formal notice. Rule 12.2(b) authorizes a trial court to order an evaluation of a defendant’s mental state at the time of the offense “[i]f the defendant has timely raised a defense of insanity[;]” therefore, the language of the rule makes clear that a defendant’s Rule 17.4(b) notice of insanity defense is a condition precedent to a judge’s ordering a sanity evaluation under Rule 12.2(b).

¶34. The error, however, does not warrant reversal of the convictions for multiple reasons. First, the record contains substantial waiver and acquiescence problems. Gregg did not lodge a categorical objection to evaluation. At the hearing, when the trial court asked whether Gregg objected to the State’s motion, defense counsel asked only that the State’s evaluation occur after the defense expert’s evaluation. Defense counsel also had stated earlier that Gregg intended to raise a *M’Naghten* issue, which could be construed as notice of intent to use insanity defense. The defense later filed a formal notice of insanity on August 28, 2024, and presented an insanity defense at trial. The above-described facts make difficult characterizing the evaluation orders as a forced disclosure of a defense that Gregg never intended to use.

¶35. Second, the trial court’s error of ordering the sanity evaluation is mitigated by the fact

that none was performed. The court's order instructed Dr. Gugliano to evaluate Gregg for competency and sanity. However, Dr. Gugliano ultimately declined to evaluate for sanity and only rendered her opinion on competency.

¶36. Third, Gregg does not identify a concrete piece of compelled evidence that improperly reached the jury and changed the verdict. Again, Dr. Gugliano did not render a sanity opinion. Instead, she testified that she stopped short of that opinion and recommended a forensic psychiatrist because medication issues were outside her specialty. Dr. Pickett did testify for the State, but Gregg's challenge is primarily to the timing and compelled nature of the process, not to a particular inadmissible statement that should have been suppressed. The State's rebuttal to insanity would have been available once Gregg filed her notice and presented Dr. Clark.

¶37. Fourth, any error in ordering the evaluations before formal Rule 17.4 notice was harmless in light of the ultimate process and evidence of the trial. Gregg placed her sanity squarely at issue. The jury heard the defense expert's explanation for why Gregg was legally insane and the State's expert's explanation for why she was not. The evidence from the video, text messages, post-shooting statements, concealment of the camera, and attempt to shoot her stepfather gave the jury a strong basis to reject insanity independent of any arguable procedural irregularity in the evaluation order.

¶38. Given defense counsel's lack of objection, Gregg's later insanity notice, the use of insanity at trial, and the absence of a specific showing of prejudice affecting the verdict, the improper ordering of a sanity mental evaluation does not merit reversal of the convictions.

C. *The admission of the Crime and Punishment testimony does not require reversal.*

¶39. Gregg argues that the trial court abused its discretion by allowing counselor Rebecca Kirk to summarize the novel *Crime and Punishment* for the jury. In her treatment notes, Kirk had written that Gregg “will read *Crime and Punishment*.” The prosecutor asked, “Can you tell us, what is *Crime and Punishment*—kind of what’s that story about?” Over a defense objection, Kirk summarized the novel as involving a “psychopath” student who plans and commits murder, writes about why people kill, is declared insane, and serves time in a labor camp. Kirk then acknowledged that she had underlined the title for grammatical reasons, not clinical emphasis. Later in her testimony, she said that Gregg had finished reading the book.

¶40. The State argues that Gregg invited any error by introducing Kirk’s records, that the testimony gave context to treatment notes used by the defense, and that Kirk testified as a lay witness rather than an expert. The State also argues that any error was harmless.

¶41. Kirk’s summary of *Crime and Punishment* was as follows:

Crime and Punishment is about a protagonist, which is the main character. It was written by a Russian author back in maybe 1866, I believe. And it is, the entire book -- very difficult book -- about a psychopath who lives in Russia. And he is poor. He is a student who is very intelligent. And he comes on hard times, impoverished and he has this obsession with -this obsessive thinking of basically planning to murder a woman with a hatchet. And the novel kind of really -- that murderous act happens pretty early on in the novel, and then the remaining novel continues to kind of be about his processing of it. And he even published something in the paper about why people kill, like -- and things like that. Anyway. And then he eventually is sentenced because of his admittance of his crime, that kind of also was found out as well. But he was declared insane. And he served eight years in a Russian labor camp. And when he was in the Russian labor camp, he was unrepentant and he did not think that what he had done was wrong and that the woman deserved it. He did actually kill her sister, too, with a hatchet to her skull, but that was kind of

an accident because she came home too early.

¶42. The State was entitled to examine Kirk about her treatment notes and about what Gregg said during counseling, and it was also entitled to rebut the defense expert's reliance on the notes. However, the plot of a nineteenth century novel had little probative value unless the State could connect the substance of the book to Gregg's own statements, thoughts, or conduct, which it did not do. A bare treatment note reference to the title did not necessarily open the door to a plot summary emphasizing murder, psychopathy, insanity, and punishment. The implied danger was that the jury would reason by association: Gregg read or wanted to read a novel about a murderer, therefore, Gregg's own mental state resembled the fictional murderer's. That could be considered the type of unfair-prejudice concern Mississippi Rule of Evidence 403 is designed to address.

¶43. Absent a stronger connection between the book's themes and Gregg's own statements or conduct, a detailed plot summary was only marginally relevant and carried a risk of unfair prejudice. The trial court should have limited the testimony. However, the error was not so "arbitrary and clearly erroneous, amounting to an abuse of discretion" as to require reversal. *Clark v. State*, 315 So. 3d 987, 994 (¶ 6) (Miss. 2021) (internal quotation marks omitted) (quoting *Miss. Transp. Comm'n v. McLemore*, 863 So. 2d 31, 34 (Miss. 2003)).

¶44. Furthermore, the error did not affect the verdict. The evidence that Gregg committed the acts was overwhelming, and the evidence that she understood the nature and wrongfulness of her acts was substantial. The jury saw or heard evidence that Gregg retrieved the gun, concealed it from the kitchen camera, shot Ashley three times, used

Ashley’s phone to text Heath, hid the camera in the refrigerator, asked friends to come over without disclosing the shooting by phone, told T.G. not to call 911, told B.W. she had shot her mother and had three shots for Heath, waited for Heath, shot him when he entered, and fled. Dr. Pickett tied her contemporaneous actions directly to *M’Naghten* and testified that they showed intact purpose, concealment, and appreciation of wrongfulness. Leber and Kirk both testified that Gregg had not reported hallucinations, delusions, dissociation, or homicidal ideation during treatment shortly before the crimes.

¶45. Given that record, it is “beyond a reasonable doubt that the error complained of did not contribute to the verdict obtained.” *Moffett v. State*, 49 So. 3d 1073, 1099 (¶ 85) (Miss. 2010) (internal quotation marks omitted) (quoting *Brown v. State*, 995 So. 2d 698, 704 (Miss. 2008)). The *Crime and Punishment* summary did not affect the verdict.

D. Cumulative error does not require reversal of the convictions.

¶46. Gregg argues that even if no single guilt-phase error requires reversal, the cumulative effect of the trial court’s rulings deprived her of a fair trial. The cumulative error doctrine “holds that individual errors, which are not reversible in themselves, may combine with other errors to make up reversible error, where the cumulative effect of all errors deprives the defendant of a fundamentally fair trial.” *Ross v. State*, 954 So. 2d 968, 1018 (¶ 138) (Miss. 2007) (citing *Byrom v. State*, 863 So. 2d 836, 847 (Miss. 2003)).

¶47. The doctrine does not require reversal here. The continuance issue lacks a denied continuance motion and a specific showing of prejudice. The mental-evaluation issue is affected by waiver, later reliance on insanity, and lack of a concrete showing that the

evaluation orders changed the verdict. The *Crime and Punishment* issue may be the most substantial evidentiary complaint, but any error was harmless in light of the record as a whole. The issues do not combine to undermine confidence in the convictions.

¶48. The Court holds that the record does not support a reversal for cumulative error.

II. Sentencing Errors

A. *Gregg was sentenced to life imprisonment, which is a legal sentence under Section 97-3-21(2)(b).*

¶49. Gregg argues that, as amended effective July 1, 2024, Section 97-3-21(2)(b) does not authorize life without parole for a juvenile convicted of first degree murder after July 1, 2024. The State argues that “life imprisonment” in Section 97-3-21(2)(b), combined with Mississippi’s parole statute, Mississippi Code Section 47-7-3 (Rev. 2023), means life without parole after *Miller* consideration. The State relies principally on *Johnson v. State*, 396 So. 3d 1073 (Miss. 2024), in which the Court affirmed a life-without-parole sentence imposed after *Miller* review.

¶50. At the time of Gregg’s sentencing, Section 97-3-21(2) provided:

(2)(a) For the purposes of this section, “juvenile offender” means a person who had not reached the age of eighteen (18) years at the time of the commission of the offense.

(b) A juvenile offender who is convicted of first-degree murder after July 1, 2024, may be sentenced to life imprisonment in the custody of the Department of Corrections if the punishment is so fixed by the jury. If the jury fails to fix the penalty at life imprisonment, the court shall fix the penalty at not less than twenty (20) nor more than forty (40) years in the custody of the Department of Corrections.

(c) A juvenile offender who is convicted of capital murder after July 1, 2024, may be sentenced to life imprisonment in the custody of the Department of

Corrections or life imprisonment without eligibility for parole in the custody of the Department of Corrections if the punishment is so fixed by the jury. If the jury fails to fix the penalty at life imprisonment or life imprisonment without parole, the court shall fix the penalty at not less than twenty-five (25) nor more than fifty (50) years in the custody of the Department of Corrections.

Miss. Code Ann. § 97-3-21(2)(a)-(c) (Supp. 2025).

¶51. The contrast between subsections (2)(b) and (2)(c) is clear. In subsection (2)(c), the legislature expressly authorized life without parole for juvenile capital murder. In subsection (2)(b), the legislature did not. Both provisions were enacted as part of the same amendment, address juvenile homicide sentencing, and both provisions appear in consecutive subsections. The legislature therefore clearly knew how to authorize “life imprisonment without eligibility for parole” when it intended that punishment, so its omission of that phrase from subsection (2)(b) is understood to be intentional.

¶52. The State’s interpretation relies on importing parole consequences from Section 47-7-3 into Section 97-3-21(2)(b). The Court declines to combine the two. The parole statute is the parole statute, and the sentencing statute is the sentencing statute.

¶53. In the juvenile-specific framework enacted in 2024, “life imprisonment” and “life imprisonment without eligibility for parole” must be given different meanings. For juvenile capital murder, the jury may choose either life imprisonment or life without parole. For juvenile first degree murder, the jury may choose life imprisonment, but the sentencing statute does not authorize life without parole. If the jury does not fix life imprisonment, the trial court must impose a term of twenty to forty years.

¶54. *Johnson v. State*, 396 So. 3d 1073 (Miss. 2024), does not compel a different result.

Johnson involved a defendant who had been convicted long before July 1, 2024. *Id.* at 1075 (¶ 1). The Court noted that the 2024 amendment did not entitle Johnson to jury sentencing because his conviction preceded the amendment’s effective date. *Id.* at 1078 (¶ 13). *Johnson* thus did not decide whether Section 97-3-21(2)(b), as applied to a juvenile convicted after July 1, 2024, authorizes life without parole for first degree murder. *Johnson* remains applicable for the general proposition that *Miller* permits juvenile life without parole in some circumstances and does not require a jury to fix the sentence, but it does not answer the statutory question presented here: whether the legislature authorized that punishment in subsection (2)(b) for juvenile first degree murder convictions after July 1, 2024.

¶55. The sentencing instructions given here did not clearly reflect the statutory difference. Instruction SS-1 allowed the jury to choose “life imprisonment,” “life imprisonment *with* the possibility of parole,” or inability to fix punishment. That framework told the jury that “life imprisonment” and “life imprisonment with the possibility of parole” were different options. Defense counsel did not object to Instruction SS-1 and affirmatively stated that the defense had no objection to the sentencing scheme. The State’s current position is that the jury’s selection of “life imprisonment” means life without parole because first degree murder is not parole eligible under Section 47-7-3. If that is so, then the jury was effectively given a life-without-parole option not listed in Section 97-3-21(2)(b). The jury’s question to the court, “What is life in prison without parole? Years-wise[,]” confirms that parole eligibility was central to its deliberations and that the instructions did not produce a clear understanding of the sentencing consequences.

¶56. However, despite the erroneous implication of the instructions, the error did not result in an illegal sentence. The trial court’s sentencing order sentenced Gregg to “life imprisonment,” *not* life imprisonment without the possibility of parole. The jury sentencing verdict read “[a]s to Count I, we, the jury, sentence the Defendant, Carly Madison Gregg, to life imprisonment.” The jury sentenced Gregg to the legal sentence under the statute, life imprisonment, and the judge entered the legal sentence, life imprisonment, on the court order. “We have explained that an illegal sentence is one that does not conform to the applicable penalty statute.” *Grayer v. State*, 120 So. 3d 964, 969 (Miss. 2013) (citation modified) (quoting *Foreman v. State*, 51 So. 3d 957, 962 n.22 (Miss. 2011)). Here, the sentence conformed to the sentencing statute and thus is not illegal.

B. Gregg was sentenced to life imprisonment for attempted murder, which does not conflict with United States Supreme Court precedent.

¶57. Gregg also challenges her sentence for attempted murder. She argues that, if the jury’s selection of “life imprisonment” means life without parole, the sentence is categorically unconstitutional under *Graham v. Florida*, 560 U.S. 48, 82 (2010), because attempted murder is a nonhomicide offense.

¶58. The State responds that Gregg’s attempted murder sentence is not actually life without parole. Mississippi Code Section 97-1-7(2) (Rev. 2020) provides that a person convicted of attempted murder “shall be imprisoned for life” if the punishment is fixed by the jury; if the jury does not fix life, the court must impose not less than twenty years. The State argues that attempted murder is a parole-eligible violent offense under Mississippi Code Section 47-7-3(1)(h)(i)(2) (Rev. 2023), making Gregg eligible for parole after serving 50 percent or

twenty years, whichever is less. If the State is correct, **Graham** does not invalidate the attempted murder sentence because the sentence is not life without parole.

¶59. The jury received the same sentencing framework in Instruction SS-2 for attempted murder that it received in Instruction SS-1 for first degree murder. Gregg is correct that if “life imprisonment” was intended to mean without parole, then **Graham** would render it unconstitutional. **Graham** clearly holds that the Eighth Amendment prohibits juveniles from being sentenced to life without parole for nonhomicide offenses. **Graham**, 560 U.S. at 82.

¶60. Yet, as with Count I, the jury and the trial court did not sentence Gregg to life without parole. The sentencing verdict returned by the jury as to Count II read, “[a]s to Count II, we, the jury, sentence the Defendant, Carly Madison Gregg, to life imprisonment.” The court’s sentencing order sentenced her to “life imprisonment.” Gregg’s sentence for Count II was not illegal under the statute and complied with **Graham**’s stricture against juvenile life-without-parole sentences for nonhomicide offenses.

C. The trial court complied with Miller v. Alabama, 567 U.S. 460 (2012).

¶61. Gregg argues that the court failed to “provide and apply a constitutionally adequate, individualized Miller analysis under **Miller v. Alabama**, **Montgomery v. Louisiana**[], 577 U.S. 190 (2016)], and their Mississippi progeny.” She acknowledges that her counsel failed to object contemporaneously but argues that plain error applies. The State argues that the court conducted a proper hearing and that the issue is waived because defense counsel failed to object.

¶62. The trial court moved to the sentencing phase after the jury delivered its verdict. The

court offered both sides the opportunity to call witnesses, but both declined and agreed to incorporate the guilt-phase record for the sentencing. The State and defense counsel provided closing arguments. Then the judge read the following instruction twice to the jury:

The Court instructs the jury that you should consider the following factors in making your decision: One, the Defendant's chronological age; two, the Defendant's family home and environment; three, the circumstances of the homicide offense; four, the Defendant's incompetencies associated with youth; and five, the Defendant's possibility of rehabilitation.

Additionally, the *Miller* considerations were sent with the jury on Instruction SS-1 and Instruction SS-2.

¶63. *Miller* requires that juries “have the opportunity to consider mitigating circumstances before imposing the harshest possible penalty for juveniles.” *Miller*, 567 U.S. at 489. As the Court noted in *Chandler v. State*, 242 So. 3d 65 (Miss. 2018), “[t]he *Miller* Court stopped short of establishing a specific procedure for lower courts to follow when sentencing juvenile homicide offenders; rather, the *Miller* Court observed several important features of youth that would be relevant to the sentencing decision.” *Id.* at 68 (¶ 11). The Mississippi Supreme Court has likewise not established a specific procedure required to satisfy *Miller*. In *Parker v. State*, 119 So. 3d 987 (Miss. 2013), the Court formally adopted *Miller* and required our courts to consider the applicable factors:

Miller does not prohibit sentences of life without parole for juvenile offenders. Rather, it “require[s] [the sentencing authority] to take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison.” *Miller*, 132 S. Ct. at 2469. The *Miller* Court identified several factors that must be considered by the sentencing authority:

Mandatory life without parole for a juvenile precludes

consideration of his chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surrounds him—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional. It neglects the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him. Indeed, it ignores that he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth—for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys. *See, e.g., Graham*, 560 U.S. [48], 130 S. Ct. at 2032 (“[T]he features that distinguish juveniles from adults also put them at a significant disadvantage in criminal proceedings”); *J.D.B. v. North Carolina*, 564 U.S. —, 131 S. Ct. 2394, 2400–01, 180 L. Ed. 2d 310 (2011) (discussing children’s responses to interrogation). And finally, this mandatory punishment disregards the possibility of rehabilitation even when the circumstances most suggest it.

Parker, 119 So. 3d at 995-96 (¶ 19) (alterations in original). The Court has further held that “the burden rests with the juvenile offender ‘to convince the sentencing authority that *Miller* considerations are sufficient to prohibit’ a sentence of life without parole.” *Wharton v. State*, 298 So. 3d 921, 927 (¶ 25) (Miss. 2019) (quoting *Jones v. State*, 122 So. 3d 698, 702 (Miss. 2013)).

¶64. Here, the trial court followed the guidelines set out in *Miller* and adopted by the Court in *Parker*. Evidence was presented during the trial that addressed each of the required considerations, and that evidence was incorporated into the jury’s deliberations. The trial court stressed the importance of the jury considering each factor repeatedly, and Gregg was afforded an opportunity to convince the sentencing authority that *Miller* would prohibit life

without parole. Therefore, the trial court properly conducted a *Miller*-compliant hearing before the jury returned its verdict.

D. The prosecutor's statements during closing arguments do not mandate reversal.

¶65. Gregg also argues that several of the prosecutor's remarks during the sentencing phase closing argument were so inflammatory and prejudicial as to require reversal. The Court disagrees.

¶66. The first statement that Gregg challenges is "[i]f she is given the possibility of parole, no one in this room knows how long she will stay there. We cannot guarantee she will stay there one year or ten years. We have no control over that." Obviously, Gregg would not have been parole eligible in one year. Even if she had been sentenced to the minimum of twenty years, the parole statute, Section 47-7-3, would require that she serve the full term. Gregg cites a string of our cases disapproving "of arguments which refer to the potential sentence in a given case" as the basis for her claim of error. *Marks v. State*, 532 So. 2d 976, 983 (Miss. 1988). However, all of the cases cited were in the guilt phase, not the sentencing phase as was the posture here. Of course counsel are allowed to refer to the potential sentence in a closing argument occurring only in the sentencing phase. The jury had already returned its guilty verdict when the prosecutor made the statement. Counsel should not misstate the law during their closing arguments, but the unobjected-to misstatement of potential parole eligibility here does not amount to reversible error by the prosecution. Additionally, because the sentence was life imprisonment and Gregg is potentially eligible for parole, there could be no harm from the misstatement regarding parole eligibility.

¶67. The second challenged statement is “[i]f she were paroled, nothing would stop her from walking into a school, nothing would stop her from walking into a shopping mall, nothing would stop her from walking into the grocery stores, nothing would stop her from being in the movie theaters.” Gregg argues the statement is “inflammatory, highly prejudicial and reasonably calculated to unduly influence the jury” and thus impermissible under the Court’s holding in *Hiter v. State*, 660 So. 2d 961, 966 (Miss. 1995). In *Hiter*, the Court held that the statements in question were “not overly prejudicial or inflammatory” and that the “remarks made by the prosecution clearly fell within the allowable scope of closing argument.” *Id.*

¶68. Gregg also argues that the second statement “veers toward an improper golden-rule style plea” and is also equivalent to a “send-a-message appeal to community alarm.” For either type of error, the argument is waived on appeal unless “the argument is so ‘inflammatory’ that the trial judge should have objected on his own motion[.]” *Payton v. State*, 785 So. 2d 267, 270 (¶ 10) (Miss. 1999) (quoting *Gray v. State*, 487 So. 2d 1304, 1311 (Miss. 1986)). While the statement does imply to the jury that they should consider the safety of the community, it is not so egregious as to mandate the trial court’s *sua sponte* objection. Therefore, the argument is waived.

¶69. Finally, the third statement Gregg claims was error is “[i]n the eyes of the law—we talked about this on Monday—Carly Gregg is an adult.” Gregg argues the statement is a misstatement of the law and “risks misleading [the jury] about the *Miller* framework[.]” The full relevant quote reads:

You have to consider her chronological age. We can't change that. She's 15 years old. In the eyes of the law -- we talked about this on Monday -- Carly Gregg is an adult. You do get to consider her age, but that's not the only factor you consider when determining whether or not to send her to prison for life.

The prosecutor correctly told the jury to consider Gregg's age under *Miller*. No error was committed in allowing the third statement that Gregg challenges.

¶70. Alternatively, Gregg asks the Court to review the errors for ineffective assistance of counsel under *Strickland v. Washington*, 466 U.S. 668 (1984). While the Court has the authority to review a claim of ineffective assistance of counsel on direct appeal, some claims are better “reserved for petitions for post-conviction relief because they often rely on materials outside the appellate record.” *Williams v. State*, 73 So. 3d 1125, 1129 (¶ 13) (Miss. 2011) (citing *Parker v. State*, 30 So. 3d 1222, 1232 (Miss. 2010)). Today's case is one such case.

E. The sentence was not against the overwhelming weight of the evidence.

¶71. Gregg argues that a life without parole sentence would be against the overwhelming weight of the evidence for the purposes of *Miller*. She writes, “[t]he overwhelming weight of evidence in this case demonstrates not irreparable corruption, but mental illness, transient crisis, and treatability, none of which were adequately considered.” Evidence was presented such that a juror could find each factor weighed in favor of a harsher sentence, and Gregg fails to show that the sentence “is so contrary to the overwhelming weight of the evidence that, to allow it to stand, would be to sanction an unconscionable injustice.” *Jones v. State*, 390 So. 3d 498, 503 (¶ 20) (Miss. 2024) (internal quotation mark omitted) (quoting *Collier v. State*, 183 So. 3d 885, 893 (¶ 34) (Miss. 2016)).

¶72. In any event, Gregg was sentenced to life imprisonment, not life imprisonment without the possibility of parole.

CONCLUSION

¶73. The Court affirms Gregg's convictions and sentences.

**RANDOLPH, C.J., KING, P.J., ISHEE, GRIFFIS, SULLIVAN AND
BRANNING, JJ., CONCUR. WILSON, J., CONCURS IN RESULT ONLY
WITHOUT SEPARATE WRITTEN OPINION.**