STATE OF MAINE
KENNEBEC, ss.

SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT
DOCKET NO. KEN-25-235

STATE OF MAINE,
Appellee

v.

JONATHAN CHARRON
Appellant

ON APPEAL FROM THE UNIFIED CRIMINAL DOCKET

BRIEF OF APPELLEE

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STATEMENT OF THE FACTS AND PROCEDURAL HISTORY

In October 2020, the Maine Drug Enforcement Agency ("MDEA") began investigating Jonathan Charron (Charron) for alleged drug trafficking. Sentencing Transcript, Tr. 12. During the investigation, agents learned that Charron was using his vehicle to import drugs from Massachusetts. *Id*.

In February 2021, agents installed a GPS tracking device, pursuant to a search warrant, on Charron's vehicle. Tr. at 13. Around 1:00am on March 18, 2021, agents received a notification that Charron's vehicle had left his residence and begun traveling south. *Id*. The vehicle arrived at an address in Massachusetts around 3:45am, remained there for less than five minutes, and then began traveling back north. *Id*.

Around 6:23am, the vehicle exited I-95 in Sidney and was stopped by Corporal Record of the Maine State Police. *Id*. Corporal Record's canine indicated on the odor of narcotics in the vehicle and a search of the vehicle was conducted. *Id*. During the search, officers recovered 599 grams of fentanyl, $8,786 in United States currency, and two handguns. *Id*. The driver indicated that Charron had asked to be driven to Massachusetts and the driver acknowledged there were drugs in the car. Tr. at 13-14.

A second search warrant was then executed at Charron's residence in Oakland. Tr. at 14. During that search, officers recovered an additional 32.5 grams of fentanyl, a total of $9,391 in United States currency, and two rifles. *Id*. Two individuals who were present in the home when the search warrant was executed admitted that they had been selling drugs for Charron. *Id*. One of those individuals was Matthew Giguere (Giguere). *Id*.

In March and April 2021, MDEA began investigating the source of the bail money that had been posted for Charron and Giguere. *Id*. In a call to his mother from jail, Charron said that MDEA had not found all of the money in his residence. *Id*. Afterwards, Charron instructed another individual to remove $50,060 from a safe hidden in a bathroom wall and they agreed that they would claim that the money was from Charron's grandmother's life savings. Tr. at 15. That individual then posted the money for Charron's bail and told the bail commissioner the fabricated story. *Id.* Afterwards, Charron retrieved $7,060 from the same safe and posted bail for Giguere. *Id*.

Afterwards, while out on pre-conviction bail in this case, Charron was charged with two additional drug related offenses. Tr. at 21, 24-25, 26, and 57-58. In KENCD-CR-21-399, Charron pled guilty to Class C Unlawful Possession, along with other charges, and was sentenced to one year. Tr. at 26. In SOMCD-

CR-22-186, Charron pled guilty to Class B Unlawful Trafficking in Scheduled Drugs. Tr. at 25. In the Somerset County case, while out on bail on this case, Charron was found in a vehicle in February 2022 with approximately 12 grams of fentanyl and over $4,800 in United States currency. Tr. at 57-58. On January 11, 2023, he pled guilty in SOMCD-CR-22-186 and was sentenced to three years straight. Tr. at 58. Charron has been incarcerated since that time and was incarcerated at the time of the sentencing in this case. Tr. at 25.

On April 23, 2025, Charron pled guilty to Aggravated Trafficking, Class A (17-A M.R.S §1105-A(1)(M)) in this case. Tr. at 5. As part of the plea, he entered admissions to several forfeiture counts. Tr. at 5-6. The parties had agreed on a sentence of 20 years as a cap, with all but 12 years as a cap, and 4 years of probation. Tr. at 9.

After argument from the parties, the sentencing court sentenced Charron to 15 years, with all but 8 years suspended, and 4 years of probation. Tr. at 72. In step two of the sentencing analysis, the court considered Charron's post-arrest conduct as an aggravating factor (Tr. at 68-69) and declined to apply the safety valve provision that would allow imposition of less than the four-year mandatory minimum sentence for the Class A charge to which Charron had pled guilty. Tr. at 71-72.

Charron timely appealed. *Appendix,* 19. He also asked for leave to appeal his sentence to the Sentence Review Panel. *Id.* The Sentence Review Panel denied the request on August 28, 2025.

STATEMENT OF THE ISSUES

I. WHETHER CHARRON'S CASE IS PROPERLY BEFORE THIS COURT ON DIRECT APPEAL.

II. IF PROPERLY BEFORE THIS COURT ON DIRECT APPEAL, WHETHER THE SENTENCING COURT ERRED IN IMPOSING CHARRON'S SENTENCE.

SUMMARY OF THE ARGUMENT

1. On direct appeal, the Law Court is limited to reviewing the legality of a sentence. The Supreme Judicial Court's Sentence Review Panel denied Charron's application to appeal his sentence, and Charron fails to allege that his sentence is illegal or was imposed in an illegal manner, and no illegality appears on the face of the record. Accordingly, the issues raised by Charron regarding his sentence are not properly before this Court on direct appeal.

2. In the alternative, if the Law Court determines the issues are proper for consideration on direct appeal, the sentencing court committed no error in imposing sentence upon Charron. The sentencing court's determination of a 25-year basic sentence was not a misapplication of legal principles because the objective seriousness of the offense warranted a high basic sentence. The sentencing court properly determined that Charron's post-arrest conduct was an aggravating factor because it showed the likelihood of reoffending; any perceived error in the court's consideration of this factor was harmless. The sentencing court also committed no error by declining to impose a sentence below the statutory mandatory minimum. The record clearly supports the court's determination that it could not make the necessary findings to impose anything less than the proscribed four-year unsuspended sentence. Finally, the

sentencing court did not err by concluding that the most important sentencing goal was to provide fair notice of the nature of sentences to be imposed. The circumstances of this case amply support this conclusion.

ARGUMENT

I. Because Charron does not challenge the legality of his sentence, his case is not properly before this Court on direct appeal.

On a direct appeal, "a challenge to the sentence is properly before [the Law Court] only if a defendant identifies an illegality, such as a constitutional or statutory violation, that is apparent from the record, and [the Law Court is] limited to reviewing only the legality, not the propriety, of sentences imposed by the trial court[.]" *State v. Asante*, 2023 ME 24, ¶ 10, 294 A.3d 131; *See also*, *State v. Hemminger*, 2022 ME 31, ¶ 14, 276 A.3d 33 ("On direct appeal, we review only the legality, not the propriety, of a sentence and our review is de novo" (internal citations and quotation marks omitted).)

Charron alleges no illegality in the sentence imposed by the sentencing court. Instead, he asserts that the sentencing court erred by considering and weighing certain factors in setting his basic sentence (Bl. Br. 13-14); erred by not concluding his post-arrest conduct was a mitigating factor (Id. at 16-17); and erred by not imposing an unsuspended sentence below the statutorily

proscribed mandatory minimum. (Id. at 17-22). Each of these assertions apply to the propriety, not the legality, of his sentence.

Accordingly, because Charron asserts no illegality in his sentence, and no such illegality appeals on the face of the record, this case is not properly before this Court on direct appeal. *Asante,* 2023 ME at ¶ 10, 294 A.3d 131; *Hemminger,* 2022 ME at ¶ 14, 276 A.3d 33.

II. In the alternative, the sentencing court committed no error in imposing Charron's sentence.

Generally, "[the Law Court] review[s] the sentencing's court's determination of the basic sentence de novo for misapplication of legal principles and its determination of the maximum sentence [and the final sentence] for abuse of discretion." *State v. Weddle,* 2024 ME 26, ¶ 15, 314 A.3d 234. However, because Charron did not raise objections to the sentencing court, the review is limited to obvious error. *State v. Watson,* 2024 ME 24, ¶ 18, 319 A.3d 430; Tr. at 25, 68-69, 73-74. "Error is obvious when there is (1) an error, (2) that is plain, and (3) that affects substantial rights. If these conditions are met, we must also conclude that (4) the error seriously affects the fairness and integrity or public reputation of judicial proceedings before we vacate a judgment on the basis of the error." *Id*.

A. The sentencing court did not misapply legal principles in setting the basic sentence.

If the issues Charron raises are reached in this direct appeal, the sentencing court did not err in imposing his sentence. "On a discretionary appeal from a sentence, [the Court] review[s] a court's determination of the basic sentence de novo for misapplication of legal principles…" *State v. Penley*, 2023 ME 7, ¶ 31, 288 A.3d 1183.

In order to determine the basic sentence, the sentencing court must consider "the particular nature and seriousness of the offense as committed by the individual." 17-A M.R.S. §1602(1)(A) (2019); *see also*, *State v. Hewey*, 622 A.2d 1151, 1154 (Me. 1993). In setting the basic sentence, the court "may compare the crime committed to all the possible means of committing that offense by measuring the defendant's conduct on a scale or continuum of seriousness." *State v. Nichols*, 2013 ME 71, ¶ 26, 72 A.3d 503.

Here, the sentencing court properly noted that it had to consider how the offense could be committed and where Charron's conduct fell along a continuum. Tr. at 66. The court noted that the amount of drugs that Charron possessed "is about 100 times the 6 gram mandatory minimum provision that would give rise to the Class A offense." Tr. at 67. The court also found that Charron was selling drugs to make a profit and that he was "armed with one

or more firearms at the time of the commission of the offense." *Id*. As a result, the court placed this case on the higher end of the continuum, ultimately finding the basic sentence should be 25 years. Tr. at 68.

Charron alleges that the sentencing court erred because it emphasized that he was found in possession of over 600 grams of fentanyl, but that the State had not provided the court with any evidence as to the purity of the fentanyl. Bl. Br. 14. Consistent with the statute, the court explicitly rejected Charron's purity argument and considered the entire amount of the substance, which the court found to be significant, stating that "regardless of how much the fentanyl may be cut, the amount is an extreme aggravating factor." Tr. at 67.

In addition, Charron alleges that the sentencing court also should not have emphasized the weight because it had "no evidence to corroborate that this was an exceedingly large amount of drugs to be confiscated." *Id*. In terms of weight, the trial court correctly noted that 6 grams of fentanyl powder gives rise to a Class A Aggravated Trafficking charge. Tr. at 67. The court also noted that Charron possessed "about 100 times" the amount of fentanyl powder necessary to sustain the Class A charge. *Id*. When the Legislature has told us how much fentanyl powder it considers substantial enough to be worthy of a Class A charge—6 grams—and the amount possessed is 100 times that

amount, that alone is sufficient evidence to allow the trial court to conclude that the amount of drugs is significant. It also justifies placing the case on the higher end of the continuum in the first step of the analysis. As a result, the sentencing court did not err when it put significant weight on the amount of drugs that Charron possessed, nor did the court err in its application of legal principles when it set the basic sentence in this case at 25 years.

B. The sentencing court committed no error by considering Charron's post-arrest conduct as an aggravating factor.

Aggravating factors "demonstrate a high probability of re-offense and, in order to protect the public, justify enhancing the basic period of incarceration." *Hewey*, 622 A.2d at 1154. As a result, aggravating factors "can include prior criminal conduct on the part of the defendant, a lack of remorse, and other circumstances indicating a high probability of reoffense." *State v. Roberts*, 641 A.2d 177, 179 (Me. 1994). In general, the sentencing court may consider "information [that] is factually reliable and relevant." *State v. Rosario*, 2022 ME 46, ¶ 38, 280 A.3d 199, 210.

The sentencing court committed no error, much less obvious error, by considering Charron's post-arrest conduct as an aggravating factor for step two. First, as to the reliability of the information, there was no dispute between the parties that Charron had been charged with—and convicted of—

two new drug related offenses while out on bail in this case. Because Charron had already pled guilty to and been convicted of that conduct, there was no issue as to the reliability of the allegations.

Second, aggravating factors are those which demonstrate that a particular defendant is at high risk of reoffending. There is no evidence that is more indicative of a defendant's risk to reoffend than proof he has already reoffended. Indeed, Charron concedes that his post-arrest conduct can be considered by the court "as evidence of [his] likelihood to reoffend." Bl. Br., 16-17.

Charron's argument to the contrary is unpersuasive because his post-arrest conduct did not only relate to "substance use." Bl. Br., 17. While on bail for this case, he pled guilty to drug *trafficking* after being found with 12 grams of fentanyl and over $4,800 in United States currency. Tr. at 25, 57. Given that Charron's post-arrest conduct clearly demonstrated a high likelihood of reoffending, the sentencing court acted well within its discretion to consider his two post-arrest convictions for drug crimes as an aggravating factor at sentencing.

C. Any perceived error in the sentencing court's treatment of the post-arrest conduct was harmless.

Even if the sentencing court erred by considering Charron's post-arrest conduct as an aggravating factor, the error was harmless. "[E]rrors in sentencing are subject to a harmless error analysis." *State v. Bean,* 2018 ME 58, ¶ 30, 184 A.3d 373. An error is harmless if it does not affect "the substantial rights of the defendant." *State v. Judkins,* 2024 ME 45, ¶ 20, 319 A.3d 443 (citation omitted); *see* M.R.U. Crim. P. 52(a) ("Any error, defect, irregularity, or variance that does not affect substantial rights shall be disregarded.").

While the court considered Charron's post-arrest conduct as an aggravating factor, it ultimately determined that "the mitigating factors strongly outweigh[ed] the aggravating factors" and reduced the maximum sentence from 25 years to 15 years. Tr. at 69. Furthermore, when defense counsel asked how the court considered Charron's sentences on his post-arrest conduct in its analysis, the court said:

> I considered those. Otherwise I would have, probably, imposed—because of what I believe its deterrent effect would be, I would have imposed a higher—I would have suspended less of the maximum period of incarceration, but for his having served those sentences. Tr. at 73-74.

Because the court found that the mitigating factors outweighed the aggravating factors and because it ultimately reduced the unsuspended portion of Charron's sentence because he had already served sentences for the

post-arrest conduct, any error in how the court treated the post-arrest conduct in its sentencing analysis is harmless because it ultimately benefitted Charron.

D. The sentencing court did not err by declining to depart from the mandatory minimum sentence.

The charge to which Charron pled guilty carries a mandatory minimum four-year sentence. 17-A M.R.S. §1125(1)(A) (2019). Under 17-A M.R.S. §1125(2) (2019) (the so-called "safety valve"), the sentencing court may impose a lower sentence if the court finds by substantial evidence that:

> (1) Imposition of a minimum unsuspended term of imprisonment under subsection 1 will result in substantial injustice to the individual. In making this determination, the court shall consider, among other considerations, whether the individual did not know and reasonably should not have known that the victim was less than 18 years of age;
> (2) Failure to impose a minimum unsuspended term of imprisonment under subsection 1 will not have an adverse effect on public safety; and
>
> (3) Failure to impose a minimum unsuspended term of imprisonment under subsection 1 will not appreciably impair the effect of subsection 1 in deterring others from violating section 1105-A, 1105-B, 1105-C, 1105-D or 1118-A; and
>
> B. The court finds that the individual's background, attitude and prospects for rehabilitation and the nature of the victim and the offense indicate that imposition of a sentence under subsection 1 would frustrate the general purposes of sentencing set forth in section 1501.

In this case, the sentencing court considered—as it was required to—all of the statutory elements, found that it could not make the findings necessary

to utilize the safety valve, and therefore declined to depart from the mandatory minimum sentence. Tr. at 71-72.

Charron speculates that the court's ruling will "have a substantial adverse effect on the treatment of other incarcerated individuals" and argues that mandatory minimums are not effective. Bl. Br., 18-19. He also argues that not departing from the mandatory minimum poses a specific injustice to him because he had already served a three-year sentence for one of his post-arrest convictions and could not get concurrent time on that case because he chose not to resolve this case at the same time. *Id* at 20.

In other words, Charron argues that he is entitled to the safety valve because he committed new criminal conduct while out on bail and made a tactical decision to resolve that case before this one, which he now perceives has been to his disadvantage. His argument is without merit.

The Legislature has said that when someone possesses 6 grams or more of fentanyl or trafficks in fentanyl with a firearm, the *minimum* sentence should be four years in prison. 17-A M.R.S. § 1105-A(1)(M) (2021); 17-A M.R.S. § 1125(1)(A) (2019). In this case, where Charron was in possession of more than 100 times the amount of fentanyl necessary to trigger the mandatory minimum sentence, along with firearms, the sentencing court's

decision not to apply the safety valve and impose a sentence less than the mandatory minimum was eminently reasonable and did not constitute error.

E. The sentencing court did not err by determining that the most important sentencing goal was providing notice of the nature of sentences that may be imposed.

The general purposes of sentencing are to "prevent crime through the deterrent effect of sentences," to encourage restitution, to minimize correctional experiences, to "give fair warning of the nature of the sentences that may be imposed," to eliminate inequalities in sentences, to encourage the just individualization of sentences, to elicit the cooperation of convicted individual in correctional programs, to not diminish the gravity of the offense, and to recognize domestic violence as a serious offense. 17-A M.R.S. §1501(1)-(9).

The sentencing court must consider the sentencing goals and must articulate which goals are being served by the sentence. *State v. Reese*, 2010 ME 30, ¶ 17, 991 A.2d 806. However, recognizing that the various sentencing goals can sometimes be in tension with one another, the sentencing court enjoys "significant leeway in what factors it may consider and the weight any given factor is due when determining a sentence." *State v. Bentley*, 2021 ME 39, ¶ 11, 254 A.3d 1171. The court is "not required to discuss every argument or

factor that the defendant raises, as long as it does not disregard significant and relevant sentencing factors." *Reese*, 2010 ME at ¶ 34, 991 A.2d.

Contrary to Charron's argument, there is no indication that the sentencing court "disregarded significant and relevant [sentencing] factors." Bl. Br., 27. To the contrary, the court explicitly said that it had considered the statutory purposes of sentencing and acknowledged that all of the factors were "truly important." Tr. at 71. The court expressed that it believed that in this case the most important factor is "providing notice of the nature of sentences that may be imposed." *Id*. The court further concluded that, in its view, there was a "material deterrent effect in imposing, at least, the mandatory minimum [sentence]." *Id* at 72.

Charron challenges the weight that the sentencing court assigned to certain factors, alleging that the court failed to appropriately individualize his sentence because "[g]even [his] track record at the prison, the majority of his sentence should have been suspended." Bl. Br., 28. This argument, again, goes to the propriety of the sentence, rather than the legality. However, even the propriety argument fails. The sentencing court has "significant leeway" in how much weight it chooses to give to a particular factor. *Bentley*, 2021 ME at ¶ 11. Here, the court did not disregard any of the sentencing factors; it merely

emphasized a sentencing factor that Charron would have preferred to be given less weight. Under the circumstances of this case, that decision was reasonable and does not constitute error.

Conclusion

For the foregoing reasons, Charron's sentence should be affirmed.

Respectfully submitted
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Dated: October 22, 2025

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CERTIFICATE OF SERVICE

I, Darcy Mitchell, Assistant Attorney General, certify that I have emailed a copy of the foregoing "BRIEF OF APPELLEE" to Charron's attorney of record, Daniel Wentworth, Esq.

Dated: October 22, 2025

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