STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM STEFAN WAHL,

Defendant-Appellant.

UNPUBLISHED
June 20, 2024

No. 363031
St. Clair Circuit Court
LC No. 22-000334-FH

Before: BOONSTRA, P.J., and CAVANAGH and PATEL, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial convictions of two counts of second-degree criminal sexual conduct, MCL 750.520c(1)(a) and (2)(b) (victim under 13 years of age, defendant 17 years of age or older), two counts of fourth-degree criminal sexual conduct, MCL 750.520e(1)(a) (victim 13 to 15 years of age, defendant five or more years older), aggravated indecent exposure, MCL 750.335a(1) and (2)(b), disseminating sexually explicit matter to a minor, MCL 722.675, and using a computer to commit a crime, MCL 752.796 and MCL 752.797(3)(b). Defendant was sentenced to 5 to 15 years' imprisonment for each of the second-degree criminal sexual conduct convictions and to 16 to 24 months' imprisonment for each of the remaining convictions. The sentence for using a computer to commit a crime was ordered to be served consecutively to the sentences for the other six convictions, which are to be served concurrently to one another. We affirm.

I. BACKGROUND

This case arises out of defendant's sexual abuse of multiple boys in St. Clair County, Michigan, from 2014 to 2021. Defendant was in his twenties when he committed the crimes. Defendant was a youth leader and later a youth pastor at a church attended by the victims and their families, and he abused some of the victims while serving as their mentor. Defendant's parents were the lead pastors of the church. The second-degree criminal sexual conduct charges related to a minor victim referred to as LS. One of the fourth-degree criminal sexual conduct charges pertained to a minor victim referred to as EC, and the other fourth-degree criminal sexual conduct charge involved a minor victim referred to as OC. The aggravated indecent exposure charge

related to a minor victim referred to as CD. OC was the victim with respect to the distributing sexually explicit matter to a minor and using a computer to commit a crime charges.

II. TEXT MESSAGES INVOLVING CD

Defendant argues that his constitutional right to due process was violated by the prosecution's failure to provide certain text messages involving CD until the third day of trial and that the trial court failed to fashion a suitable remedy for the alleged discovery violation. We disagree.

This Court reviews de novo a defendant's due process claim related to an alleged failure to provide evidence. *People v Schumacher*, 276 Mich App 165, 176; 740 NW2d 534 (2007). "This Court reviews a trial court's decision regarding the appropriate remedy for a discovery violation for an abuse of discretion. A trial court abuses its discretion when it selects an outcome that falls outside the range of reasonable and principled outcomes." *People v Rose*, 289 Mich App 499, 524; 808 NW2d 301 (2010) (citation omitted).

"There is no general constitutional right to discovery in a criminal case." *People v Banks*, 249 Mich App 247, 254; 642 NW2d 351 (2002) (cleaned up). However, "[d]ue process requires the prosecution to disclose evidence in its possession that is exculpatory and material, regardless of whether the defendant requests the disclosure." *Schumacher*, 276 Mich App at 176, citing *Brady v Maryland*, 373 US 83, 87; 83 S Ct 1194; 10 L Ed 2d 215 (1963), and *People v Stanaway*, 446 Mich 643, 666; 521 NW2d 557 (1994). To establish a due process violation arising from the failure to disclose evidence, a defendant must show that: "(1) the prosecution has suppressed evidence; (2) that is favorable to the accused; and (3) viewed in its totality, is material." *People v Chenault*, 495 Mich 142, 155; 845 NW2d 731 (2014).

MCR 6.201(B)(3) requires the prosecutor to provide, upon request, any written or recorded statements of a defendant. If a party fails to comply with MCR 6.201, the trial court has discretion to fashion a remedy. See MCR 6.201(J) ("If a party fails to comply with this rule, the court, in its discretion, may order the party to provide the discovery or permit the inspection of materials not previously disclosed, grant a continuance, prohibit the party from introducing in evidence the material not disclosed, or enter such other order as it deems just under the circumstances.").

In this case, the prosecution did not provide defendant with text messages that CD's mother shared with the police until the third day of trial. The text messages included communications involving CD's mother, CD, and defendant. The police report reflected that CD's mother had provided the text messages to the police. Defendant does not dispute that the police report had been provided to the parties. But the text messages themselves were not provided to the parties until the third day of trial. When defense counsel brought this matter to the trial court's attention on the third day of trial, the trial court afforded defense counsel an hour and a half to review the text messages. Defense counsel did not suggest that this was insufficient time. Moreover, the text messages concerned CD, who was the victim only with respect to the aggravated indecent exposure charge. CD did not testify until the fourth day of trial, and the trial court indicated that CD's mother could be recalled on the fourth day of trial. The trial court did not abuse its discretion in fashioning a remedy for the alleged discovery violation.

Further, defendant has failed to establish that he was denied access to any material or exculpatory evidence. After reviewing the text messages, defense counsel noted information in the documents suggesting CD had been at a juvenile detention facility and that CD's mother had once referred to CD lying about matters unrelated to the allegations in this case. Defendant says that, if the documents had been provided sooner, defense counsel could have adjusted the defense strategy in light of CD's alleged juvenile history or credibility issues. As explained later in this opinion, the trial court correctly resolved defense counsel's arguments on these points. Defendant failed to establish that CD had a juvenile adjudication that could be used for impeachment. The court indicated that CD's mother could be questioned by defense counsel regarding CD's character for truthfulness or untruthfulness, but defense counsel ultimately declined to do that. Defendant has not established that the failure to provide the text messages until the third day of trial denied him access to any material or exculpatory evidence. Accordingly, defendant was not denied his right to due process.

III. STATEMENT MADE BY DEFENDANT TO EC

Defendant next argues that he was denied due process because the defense was not notified of a statement that defendant had made to EC during a break in the trial. We disagree.

On the third day of trial, a short recess was taken during the prosecutor's direct examination of EC. The recess lasted from 10:13 a.m. to 10:34 a.m. Immediately upon returning from the break, the prosecutor questioned EC as follows:

> *Q.* So [EC], we just took a 10, 15[-]minute break; is that right?
>
> *A.* Yes.
>
> *Q.* During your break where were you sitting?
>
> *A.* In the pew right outside the door.
>
> *Q.* And did you see the [d]efendant while you were on the break?
>
> *A.* Yeah, I did.
>
> *Q.* Did he say anything to you?
>
> *A.* Yeah, he called me a snake.

MCR 6.201(B)(3) requires the prosecutor to provide, upon request, any written or recorded statements of a defendant. But there is no obligation to disclose an unrecorded oral statement like the one defendant made to EC. *People v Tracey*, 221 Mich App 321, 324; 561 NW2d 133 (1997). Further, the statement was not exculpatory or favorable to defendant. The statement supported a reasonable inference that defendant was trying to intimidate a prosecution witness and thus it was probative of defendant's consciousness of guilt. See *People v Sholl*, 453 Mich 730, 740; 556 NW2d 851 (1996) ("A defendant's threat against a witness is generally admissible. It is conduct that can demonstrate consciousness of guilt."); *People v Parrott*, 335 Mich App 648, 680; 968

NW2d 548 (2021) (noting that a defendant's statements may be properly admitted to show consciousness of guilt).

EC testified about the statement immediately after the trial recess during which defendant made the statement. Defendant's suggestion that a disclosure should have been made at some earlier point in time is inconsistent with the fact that the statement had been made only moments earlier. Even if a disclosure could have been made a few minutes earlier, it is unclear how this would have made a difference in the formulation of a defense strategy.

Defendant cursorily states that his right to refrain from testifying was implicated because he could not deny having made the statement without taking the stand. But defendant cites no authority that would support the finding of a constitutional violation in these circumstances. Defendant exercised his constitutional right not to testify. He was not denied that right. And the defense had other possible means to challenge EC's testimony with respect to defendant's statement. Defense counsel was free to cross-examine EC regarding his testimony that defendant made the statement.

Accordingly, the trial court did not err in denying defendant's motion for a mistrial on this issue. A mistrial is warranted only "when the prejudicial effect of an error is so egregious that it cannot be removed in any other way." *People v Haynes*, 338 Mich App 392, 416; 980 NW2d 66 (2021). For the reasons explained, there was no error, let alone an error with a prejudicial effect so egregious that a mistrial was necessary to eliminate the prejudice.

IV. INEFFECTIVE ASSISTANCE OF COUNSEL

Defendant also argues that he was denied the effective assistance of counsel. We disagree.

The United States and Michigan Constitutions afford criminal defendants the right to effective assistance of counsel. *People v Yeager*, 511 Mich 478, 488; 999 NW2d 490 (2023), citing Const 1963, art 1, § 20; US Const Am VI; *Strickland v Washington*, 466 US 668; 104 S Ct 2052; 80 L Ed 2d 674 (1984). An ineffective-assistance-of-counsel claim presents a "mixed question of fact and constitutional law." *Yeager*, 511 Mich at 487. Generally, we review de novo constitutional questions, while we review the trial court's findings of fact for clear error. *Id.* To preserve a claim of ineffective assistance of counsel, a defendant must raise the issue in a motion for a new trial or a *Ginther*[1] evidentiary hearing filed in the trial court, *People v Heft*, 299 Mich App 69, 80; 829 NW2d 266 (2012), or in a motion to remand for a *Ginther* hearing filed in this Court, *People v Abcumby-Blair*, 335 Mich App 210, 227; 966 NW2d 437 (2020). Defendant did none of these things and thus our review of this unpreserved issue is limited to errors apparent on the record. *Abcumby-Blair*, 335 Mich App at 227.

To prevail on a claim of ineffective assistance, "a defendant must show that (1) counsel's performance fell below an objective standard of reasonableness and (2) but for counsel's deficient performance, there is a reasonable probability that [the] outcome would have been different." *Yeager*, 511 Mich at 488 (cleaned up). "A reasonable probability is a probability sufficient to

[1] *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1973).

undermine confidence in the outcome." *Id*. (cleaned up). "Effective assistance of counsel is presumed, and the defendant bears a heavy burden of proving otherwise." *People v Head*, 323 Mich App 526, 539; 917 NW2d 752 (2018) (cleaned up). We will not find trial counsel to be ineffective where an objection would have been meritless or futile, *Head*, 323 Mich App at 539, nor will we second-guess matters of trial strategy or "assess counsel's competence with the benefit of hindsight[,]" *Abcumby-Blair*, 335 Mich App at 237 (cleaned up). A "defendant has the burden of establishing the factual predicate for his claim of ineffective assistance of counsel." *People v Hoag*, 460 Mich 1, 6; 594 NW2d 57 (1999).

Defendant argues that defense counsel was ineffective for failing to object or seek redaction of certain text messages exchanged between defendant and EC. The text messages were exchanged between defendant and EC in September 2021 and October 2021, which was the period between the time that EC's mother confronted defendant about EC's allegations of sexual abuse and the time that the abuse was reported to the police. In these text messages, EC and defendant discussed the allegations. EC's phone assigned the name "pedophile" to defendant, and that word thus appeared at the top of each unredacted screenshot of the text messages. The record reflects that an unredacted copy of the text messages was provided to the trial court at trial, but the jury was provided only with copies from which the word "pedophile" had been redacted. The unredacted and redacted copies of the text messages are attached to the prosecutor's appellate brief.

After the text messages were admitted into evidence and copies were provided to the jury, the prosecutor provided a copy to the trial court. When giving a copy to the trial court, the prosecutor stated, "The part up here has been redacted." The prosecutor did not elaborate further at that time, presumably because the jury was in the courtroom. Later, outside the presence of the jury, the prosecutor explained that the copies given to the jury were redacted but that the copy given to the trial court was unredacted. The trial court stated that it understood the situation and agreed with the prosecutor that the copies provided to the jury were redacted and that the copy given to the trial court was unredacted.

Defendant's argument is based on a misunderstanding of the record and thus he has failed to establish the factual predicate for his argument. *Hoag*, 460 Mich at 6. Defendant identifies no other basis on which defense counsel should have objected to the admission into evidence of the text messages. The documents were relevant because they contained statements by defendant regarding the allegations of sexual abuse. Defense counsel was not ineffective for failing to make a futile objection or advance a meritless argument. *Head*, 323 Mich App at 539.

V. PRIOR ACCUSATIONS

Defendant further argues that his constitutional rights were violated by the trial court's refusal to admit evidence that LS had accused a church member other than defendant of sexual assault. Defendant's argument is unavailing.

Constitutional issues are generally reviewed de novo as questions of law. *People v Butler*, ___ Mich ___, ___; ___ NW3d ___ (2024) (Docket No. 165162); slip op at 3. Although defendant frames this issue in constitutional terms, it encompasses an underlying evidentiary determination. Evidentiary decisions are reviewed for an abuse of discretion. *Id*. "An abuse of discretion occurs

when the court chooses an outcome that falls outside the range of reasonable and principled outcomes." *People v Unger*, 278 Mich App 210, 217; 749 NW2d 272 (2008). A trial court's resolution of a close evidentiary question cannot be an abuse of discretion. *Butler*, ___ Mich at ___; slip op at 3.

The rape-shield statute, MCL 750.520j, "generally excludes 'evidence of a rape victim's prior sexual conduct with others, and sexual reputation, when offered to prove that the conduct at issue was consensual or for general impeachment . . . .' " *Butler*, ___ Mich at ___; slip op at 3-4, quoting *People v Hackett*, 421 Mich 338, 347-348; 365 NW2d 120 (1984). However, " 'in certain limited situations, such evidence may not only be relevant, but its admission may be required to preserve a defendant's constitutional right to confrontation.' " *Butler*, ___ Mich at ___; slip op at 4, quoting *Hackett*, 421 Mich at 348. For example, a " 'defendant should be permitted to show that the complainant has made false accusations of rape in the past.' " *Butler*, ___ Mich at ___; slip op at 4, quoting *Hackett*, 421 Mich at 348.

The trial court has discretion in determining the admissibility of such evidence. *Butler*, ___ Mich at ___; slip op at 4, citing *Hackett*, 421 Mich at 349. "In exercising its discretion, the trial court should be mindful of the significant legislative purposes underlying the rape-shield statute and should always favor exclusion of evidence of a complainant's sexual conduct where its exclusion would not unconstitutionally abridge the defendant's right to confrontation." *Hackett*, 421 Mich at 349.

Our Supreme Court has explained the procedure for determining the admissibility of this type of evidence:

> "The defendant is obligated initially to make an offer of proof as to the proposed evidence and to demonstrate its relevance to the purpose for which it is sought to be admitted. Unless there is a sufficient showing of relevancy in the defendant's offer of proof, the trial court will deny the motion. If there is a sufficient offer of proof as to a defendant's constitutional right to confrontation, as distinct simply from use of sexual conduct as evidence of character or for impeachment, the trial court shall order an *in camera* evidentiary hearing to determine the admissibility of such evidence in light of the constitutional inquiry previously stated. At this hearing, the trial court has, as always, the responsibility to restrict the scope of cross-examination to prevent questions which would harass, annoy, or humiliate sexual assault victims and to guard against mere fishing expeditions. Moreover, the trial court continues to possess the discretionary power to exclude relevant evidence offered for any purpose where its probative value is substantially outweighed by the risks of unfair prejudice, confusion of issues, or misleading the jury." [*Butler*, ___ Mich at ___; slip op at 4 (emphasis omitted), quoting *Hackett*, 421 Mich at 350-351.]

Our Supreme Court has repeatedly "emphasized that 'in ruling on the admissibility of the proffered evidence, the trial court should rule against the admission of evidence of a complainant's prior sexual conduct with third persons unless that ruling would unduly infringe on the defendant's constitutional right to confrontation.' " *Butler*, ___ Mich at ___; slip op at 5, quoting *Hackett*, 421 Mich at 351.

The responsibility to guard against mere fishing expeditions extends to "a trial court's decision whether a sufficient offer of proof has been made to necessitate an evidentiary hearing under *Hackett*." *Butler*, ___ Mich at ___; slip op at 5. The defendant is required to make "a showing of at least some apparently credible and potentially admissible evidence that the prior allegation was false." *Id*., citing *People v Williams*, 191 Mich App 269, 273-274; 477 NW2d 877 (1991). Our Supreme Court in *Butler* noted that, in *Williams*, this Court held that the "defendant's offer of proof was insufficient because 'defense counsel had no idea whether the prior accusation was true or false and no basis for believing that the prior accusation was false and instead merely wished to engage in a fishing expedition in hopes of being able to uncover some basis for arguing that the prior accusation was false[.]' " *Butler*, ___ Mich at ___; slip op at 5-6 (cleaned up), quoting *Williams*, 191 Mich App at 273-274.

Defendant argues that the trial court erred in excluding evidence that LS had "falsely" accused another church member of sexual assault. Defendant's argument fails. He presented no evidence that the accusation against the other church member was false. Defense counsel alluded to the defense theory that there was an effort by various families to "take the church down . . . ." The trial court aptly noted the lack of evidentiary support for this defense theory. There was no basis to conclude that LS fabricated a false allegation against the other church member as part of an effort to bring down the church. Defendant failed to meet his burden of providing an adequate offer of proof and thus the trial court did not abuse its discretion by excluding the evidence regarding LS's accusation against the other church member. Defendant did not suffer a constitutional violation.[2]

VI. CD'S JUVENILE HISTORY

Defendant next argues that he was denied his due process right to a fair trial when the trial court refused to allow discovery of CD's juvenile history or the use of any juvenile adjudication of CD for impeachment. We disagree.

In order to preserve a constitutional claim, such as one involving the due process right to a fair trial, a defendant must object on that ground in the trial court. *People v Brown*, 326 Mich App 185, 191-192; 926 NW2d 879 (2019). "[A]n objection on one ground is insufficient to preserve an appellate argument based on a different ground." *People v Danto*, 294 Mich App 596, 605; 822 NW2d 600 (2011). Defendant frames his appellate argument on this issue in terms of his constitutional due process right to a fair trial. In the trial court, defendant sought to acquire and

[2] In addition to asserting a violation of his constitutional right of confrontation, defendant cursorily asserts that his due process right to present a defense was violated. However, "the right to present a defense is not absolute. The defendant must still comply with established rules of procedure and evidence designed to assure both fairness and reliability in the ascertainment of guilt and innocence." *People v Solloway*, 316 Mich App 174, 198; 891 NW2d 255 (2016) (cleaned up). Hence, "the right to present a defense extends only to relevant and admissible evidence." *Id*. (cleaned up). As explained, defendant failed to make an adequate offer of proof and thus the trial court did not abuse its discretion by excluding the evidence. Because the evidence was not relevant or admissible, there was no violation of defendant's right to present a defense.

use information about CD's juvenile history but did not raise the constitutional issue asserted on appeal. Accordingly, the constitutional issue is unpreserved.

Unpreserved constitutional issues are reviewed for plain error affecting substantial rights. *People v Burkett*, 337 Mich App 631, 635; 976 NW2d 864 (2021). To obtain relief under plain-error review, a defendant must show that an error occurred, that it was clear or obvious, and that it was prejudicial, i.e., that it affected the outcome of the lower court proceedings. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999). Reversal is proper only if the defendant is actually innocent or the error seriously affected the fairness, integrity, or public reputation of the judicial proceedings. *Id*. at 763-764.

Implicit in the constitutional guarantee of due process is the right to a fair trial. *People v Horton*, 341 Mich App 397, 401; 989 NW2d 885 (2022). A defendant is entitled to a fair trial, not a perfect trial, because there are no perfect trials. *People v Miller*, 482 Mich 540, 559; 759 NW2d 850 (2008).

In contrast to the far-reaching discovery permitted in civil litigation, "discovery in criminal cases is constrained by the limitations expressly set forth in the reciprocal criminal discovery rule promulgated by our Supreme Court, MCR 6.201." *People v Greenfield*, 271 Mich App 442, 447; 722 NW2d 254 (2006). "There is no general constitutional right to discovery in a criminal case. Moreover, due process requires only that the prosecution provide a defendant with material, exculpatory evidence in its possession." *Id*. at 447 n 4 (cleaned up). The prosecutor "is not required to undertake discovery on behalf of a defendant." *People v Leo*, 188 Mich App 417, 427; 470 NW2d 423 (1991).

MCR 6.201(A) provides, in relevant part:

> In addition to disclosures required by provisions of law other than MCL 767.94a, a party upon request must provide all other parties:
>
> * * *
>
> (4) any criminal record that the party may use at trial to impeach a witness;
>
> (5) a description or list of criminal convictions, known to the defense attorney or prosecuting attorney, of any witness whom the party may call at trial . . . .

At the time of trial, MRE 609(a)[3] provided:

> For the purpose of attacking the credibility of a witness, evidence that the witness has been convicted of a crime shall not be admitted unless the evidence has been

[3] The Michigan Rules of Evidence were substantially amended on September 20, 2023, effective January 1, 2024. See 512 Mich lxxxvii (2023). This opinion relies on the version of MRE 609 in effect at the time of trial.

> elicited from the witness or established by public record during cross-examination, and
>
> (1) the crime contained an element of dishonesty or false statement, or
>
> (2) the crime contained an element of theft, and
>
> (A) the crime was punishable by imprisonment in excess of one year or death under the law under which the witness was convicted, and
>
> (B) the court determines that the evidence has significant probative value on the issue of credibility and, if the witness is the defendant in a criminal trial, the court further determines that the probative value of the evidence outweighs its prejudicial effect.

MRE 609(e) stated as follows at the time of trial:

> Evidence of juvenile adjudications is generally not admissible under this rule, except in subsequent cases against the same child in the juvenile division of a probate court. The court may, however, in a criminal case or a juvenile proceeding against the child allow evidence of a juvenile adjudication of a witness other than the accused if conviction of the offense would be admissible to attack the credibility of an adult and the court is satisfied that admission is necessary for a fair determination of the case or proceeding.

After reviewing the text messages provided by CD's mother to the police, defense counsel noted that an August 22, 2020 text message indicated that CD had been in a juvenile detention center on the preceding Thursday through Sunday and that he was on probation and wearing a tether. Defense counsel asked for information regarding CD's juvenile history. The prosecutor indicated that she lacked knowledge of CD's juvenile history. The trial court determined that any juvenile adjudication of CD would not be admissible under MRE 609(e) and thus denied the defense request.

On appeal, defendant argues that his due process right to a fair trial was violated by the trial court's refusal to allow discovery of CD's juvenile history and the use of it for impeachment. We disagree. As noted, the prosecutor stated at trial that she lacked knowledge of CD's juvenile history. The prosecutor was not obligated to undertake discovery on behalf of defendant. *Leo*, 188 Mich App at 427. "Neither the prosecution nor the defense has an affirmative duty to search for evidence to aid the other's case." *People v Burwick*, 450 Mich 281, 289 n 10; 537 NW2d 813 (1995). Moreover, on appeal, the prosecutor states that CD did not have any juvenile adjudications. There is nothing in the record to contradict the prosecutor's representation. Even if CD had a juvenile adjudication, defendant has not established that it would have been admissible under MRE 609(e). This was not a criminal case or a juvenile proceeding against the child, CD. Also, defendant has not shown that use of any such juvenile adjudication would have been necessary for a fair determination of the case. Defendant has not shown a plain error affecting his substantial rights.

VII. SENTENCING CHALLENGES

Finally, defendant asserts that the trial court failed to articulate a sufficient rationale for consecutive sentencing. Defendant also advances a proportionality challenge to his sentences. We disagree with defendant's arguments.

No special steps are required to preserve a challenge to the proportionality of sentences. *People v Foster*, 319 Mich App 365, 375; 901 NW2d 127 (2017). For other sentencing issues, including regarding consecutive sentencing, a defendant must raise the issue at sentencing, in a proper motion for resentencing, or in a proper motion to remand filed in this Court. *People v Clark (On Remand)*, 315 Mich App 219, 223-224; 888 NW2d 309 (2016). Defendant did not raise his consecutive sentencing challenge at sentencing, in a proper motion for resentencing, or in a proper motion to remand. Therefore, that aspect of the issue is unpreserved.

Unpreserved sentencing issues are reviewed for plain error affecting substantial rights. *People v Meshell*, 265 Mich App 616, 638; 696 NW2d 754 (2005). "This Court reviews the proportionality of a trial court's sentence for an abuse of discretion." *People v Lydic*, 335 Mich App 486, 500; 967 NW2d 847 (2021). A trial court abuses its discretion if the imposed sentence is not "proportionate to the seriousness of the circumstances surrounding the offense and the offender." *People v Steanhouse*, 500 Mich 453, 459-460; 902 NW2d 327 (2017) (cleaned up).

"In Michigan, concurrent sentencing is the norm, and a consecutive sentence may be imposed only if specifically authorized by statute." *People v Ryan*, 295 Mich App 388, 401; 819 NW2d 55 (2012) (cleaned up). MCL 752.797(4) grants the trial court discretion to impose a consecutive sentence for a conviction of using a computer to commit a crime. When a trial court exercises its discretion to impose a consecutive sentence, the court must articulate on the record its rationale for imposing consecutive sentencing. *People v Norfleet*, 317 Mich App 649, 654, 664-665; 897 NW2d 195 (2016). "[R]equiring trial courts to justify each consecutive sentence imposed will help ensure that the 'strong medicine' of consecutive sentences is reserved for those situations in which so drastic a deviation from the norm is justified." *Id*. at 665. Each sentence is reviewed on its own merits. *Id*. at 663. Therefore, "a proportionality challenge to a given sentence must be based on the individual term imposed and not on the cumulative effect of multiple sentences." *Id*. "[T]he combined term is not itself subject to a proportionality review . . . ." *Id*. at 664.

Defendant argues that the trial court erred in making the 16-to-24-month sentence for using a computer to commit a crime consecutive to the other sentences. In announcing its sentences, the trial court provided adequate reasoning that justified the imposition of a consecutive sentence. The court noted the detailed statements provided by each victim or his representative regarding the negative effects of defendant's crimes on the victims' lives. The court emphasized the destructive effect that defendant's conduct had on the victims' lives. The court's articulation of defendant's egregious conduct and the devastating consequences for the victims justified the consecutive sentencing. This case differs from *Norfleet*, 317 Mich App at 666, in which this Court remanded for further articulation because the trial court spoke only in general terms and did not separately address each consecutive sentence. Unlike in *Norfleet*, the present case did not involve multiple consecutive sentences, and the trial court provided a detailed rationale before imposing a consecutive sentence.

Although defendant suggests that he is making a proportionality challenge, he fails to present a discernible argument addressing the proportionality of any individual sentence on the merits. Instead, he seems to be challenging the combined term of his consecutive sentences. As noted, "a proportionality challenge to a given sentence must be based on the individual term imposed and not on the cumulative effect of multiple sentences." *Norfleet*, 317 Mich App at 663. "[T]he combined term is not itself subject to a proportionality review . . . ." *Id*. at 664. Defendant's proportionality challenge is unavailing for this reason alone.

Moreover, to the extent defendant is challenging the proportionality of his sentences for second-degree criminal sexual conduct, we note that defendant's sentences are within the guidelines range and thus presumptively proportionate. *People v Ventour*, ___ Mich App ___, ___; ___ NW3d ___ (2023) (Docket No. 363922); slip op at 7. "A defendant may overcome the presumptive proportionality of a within-guidelines sentence by presenting unusual circumstances that would render the presumptively proportionate sentence disproportionate." *Id*. at 8 (cleaned up). Defendant presents no unusual circumstances that would render his presumptively proportionate sentences disproportionate. He alludes to numerous letters of support for him from his church and friends, but the trial court aptly noted that the persons writing those letters did not know defendant as well as they thought and that the jury had found that defendant committed the charged offenses. Defendant mentions his lack of a criminal record, but that is not an unusual circumstance that overcomes the presumption of proportionality. *People v Piotrowski*, 211 Mich App 527, 533; 536 NW2d 293 (1995). Nor is there anything unusual about defendant's claim to have made efforts to rehabilitate himself. That claim is undercut by defendant's calling one of the victims a "snake" during a trial recess. Defendant's criminal conduct was egregious and had a destructive effect on the lives of the victims. Overall, defendant's proportionality argument fails.

Affirmed.

/s/ Mark T. Boonstra
/s/ Mark J. Cavanagh
/s/ Sima G. Patel