STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED November 04, 2024 12:13 PM
v	No. 365471 Oakland Circuit Court
JORDAN GABRIEL GARCIA-TINOCO, Defendant-Appellant.	LC No. 2018-266330-FJ

Before: O'BRIEN, P.J., and BORRELLO and N. P. HOOD, JJ.

PER CURIAM.

Defendant, Jordan Gabriel Garcia-Tinoco, appeals as of right his jury-trial convictions of two counts of first-degree felony murder, MCL 750.316(1)(b),[1] and two counts of carrying a firearm during the commission of a felony (felony-firearm), MCL 750.227b. Garcia-Tinoco was 17 years old at the time of the offenses. Pursuant to MCL 769.25(9), the trial court sentenced him to concurrent terms of 38 to 60 years' imprisonment for each of the murder convictions, consecutive to two years' imprisonment for each of the felony-firearm convictions. On appeal, Garcia-Tinoco challenges the sufficiency of evidence at trial and the proportionality of his sentences. Because there was sufficient evidence to convict Garcia-Tinoco of the charged crimes, and he has failed to overcome the presumption that his sentences were proportionate, we affirm.

I. BACKGROUND

This case arises out of the shooting death of two individuals during a botched robbery. On January 13, 2018, Garcia-Tinoco agreed to participate in a robbery and swindle. In the evening, he walked to the house of an acquaintance, Austin Cooper, on Stirling Road in Pontiac, Michigan

[1] Garcia-Tinoco was convicted of felony murder, but MCL 750.316(1)(b)'s sentencing provision mandating a sentence of life imprisonment without eligibility for parole did not apply because he was under 18 years old at the time of the offenses. See MCL 769.25 (providing the sentencing framework for defendants less than 18 years old who commit offenses otherwise punishable by mandatory life imprisonment without the possibility of parole).

(the Stirling Road home). Cooper lived at the Stirling Road home with Michael Adams, Jesus Reyes, and an individual identified as Amanda, who were present along with Giovanni McCaa when Garcia-Tinoco arrived. According to both McCaa and Reyes, Garcia-Tinoco, Cooper, Reyes, and McCaa smoked marijuana at the kitchen table for several hours while Cooper tried to convince them to help him rob Justin Flores, an individual who lived nearby.

Cooper arranged to purchase some marijuana from Flores. Unbeknownst to Flores, however, Cooper's plan was actually to use counterfeit money to swindle him, or alternatively rob him. Cooper made this plan known to several younger men who were smoking marijuana with him at the Stirling Road home and convinced them to come with him to Flores's house on nearby Robinwood Street (the Robinwood Street home). McCaa drove Cooper, Reyes, and Garcia-Tinoco from the Stirling Road home to the Robinwood Street home to accomplish the robbery. McCaa drove them in a car barrowed from Caitlyn Bridges, who was also present at the Stirling Road home. Only Garcia-Tinoco, armed with the handgun, and Cooper, armed with a BB gun, exited the vehicle and went into the Robinwood Street home. Shortly after they went inside, McCaa and Reyes heard gunshots, and McCaa drove away.

David Parks II, who lived with Flores and Flores's fiancée, Cahla Richardson, was returning home when he, too, heard gunshots at the Robinwood Street home. Pulling into the driveway, Parks saw an armed man in the doorway of their home fire two shots at Flores, who appeared to be chasing the armed man out of the house. As the armed man fled the house, Parks accelerated his car, hitting the man. The man was flung onto the hood of the car momentarily, then rolled off and continued running. A second man also ran down the street, away from the house. Parks entered his home to find Flores bleeding and unable to speak. He also found Richardson facedown but still alive. Parks's young son and Flores's young son were also in the home. Flores and Richardson both died from multiple .45 caliber gunshot wounds. Police later recovered 10 spent .45 caliber shell casings from the Robinwood Street home.

As McCaa drove away from the Robinson Street home, he lost control of the car and crashed into a pole. Cooper ran up and tried to get into the back seat of the car but was unable to do so, so he continued running down the street. McCaa regained control of the car and drove toward the Stirling Road home. On the way, he and Reyes encountered Garcia-Tinoco, who appeared scared and panicked, so they picked him up and took him with them to the Stirling Road home.

Cooper returned to the Stirling Road home a short time later with blood on his pants and a black eye. He told another resident of the Stirling Road home that he had gotten into a fight with someone and that Garcia-Tinoco had shot at the people where they had been.

The police responded, identified Cooper as a suspect, and went to the Stirling Road home to arrest him. When the police arrived at the Sterling Road home several hours after the incident, they saw clothes burning on an outdoor grill at the home. The police recovered a .45 caliber handgun from the home as well as a BB gun. Later testing established that the 10 spent .45 caliber shell casings found at the Robinwood Street home had been fired from the .45 caliber handgun seized from the Stirling Road home.

Police arrested Garcia-Tinoco at a different location on January 14, 2018. At the time of his arrest, he had three counterfeit $20 bills in his pants pocket. Near him in the same room was a small box containing two .45 caliber live rounds.

Garcia-Tinoco, Cooper, and McCaa were charged related to the incident. At trial, the prosecution offered testimony of numerous individuals who were present at the Stirling Road home, including McCaa, who testified pursuant to a cooperation agreement. The prosecution also presented testimony of police officers, including firearm tool mark evidence, collection of the shell casings, and critically, the testimony of Jennifer Lodge, a booking clerk at the Oakland County Jail, who provided what amounted to a confession by Garcia-Tinoco that he was present at the shooting.

At trial, Garcia-Tinoco testified. He acknowledged that he was at the Stirling Road home on January 13, 2018, but he claimed that Cooper and two of his Black male friends were the only ones who left for a period of time that evening. Garcia-Tinoco's testimony was consistent with the testimony of Flores's neighbor on Robinwood Street, who testified that after hearing gunshots in her neighborhood on January 13, 2018, she saw what she thought were two Black men running out of Flores's house. According to the neighbor, one of the two Black men had a gun in his hand and was hit by a car pulling into Flores's driveway, after which he got up and continued running down the street. Notably, during his booking at the Oakland County Jail, Lodge asked Garcia-Tinoco if he had any injuries the jail should be aware of, and he responded, "after I shot those two people I was hit by a car."

The jury found Garcia-Tinoco guilty, as stated earlier.

In February 2019, the prosecution moved to sentence Garcia-Tinoco to life imprisonment without the possibility of parole pursuant to MCL 769.25. Garcia-Tinoco responded, and the trial court found that it was necessary to hold a hearing in order to consider the factors set forth in *Miller v Alabama*, 567 US 460; 132 S Ct 2455; 183 L Ed 2d 407 (2012), and other criteria to resolve the motion. The hearing was originally scheduled for late March 2019 but was adjourned for various reasons, none of which were attributable to Garcia-Tinoco. The prosecution then withdrew its motion on March 20, 2023, and in their amended sentencing memorandum sought the imprisonment of Garcia-Tinoco for a lengthy term of years rather than for life imprisonment without the possibility of parole. Thus, a *Miller* hearing was no longer necessary. Garcia-Tinoco filed a supplemental sentencing memorandum on March 22, 2023.

On March 22, 2023 the trial court held a sentencing hearing. During the sentencing hearing, defense counsel made arguments about Garcia-Tinoco's youth and culpability relative to his codefendant, Cooper, and the other individuals in the car on the night of the incident. The trial court considered these factors. On the record, the trial court commented on Garcia-Tinoco's cognitive ability and expressed its view that he was actually a "very smart" and "very sophisticated person." The trial court also appeared to consider the relative culpability of Garcia-Tinoco to other individuals. The trial court observed that "this whole case has been rather interesting in who has been charged, who's been punished, who hasn't been punished," specifically commenting that McCaa, in the view of the court, got a bad deal for his cooperation. The trial court also considered Garcia-Tinoco's conduct while incarcerated awaiting trial and sentencing, noting his misconduct. After considering all of this, the trial court sentenced Garcia-Tinoco to concurrent terms of 38 to

60 years' imprisonment on each murder conviction, consecutive to two years' imprisonment on each felony-firearm conviction. This appeal followed.

II. SUFFICIENCY OF THE EVIDENCE

On appeal, Garcia-Tinoco first contends there was insufficient evidence to prove beyond a reasonable doubt that he accompanied his codefendant, Cooper, to the scene of the shooting and that his convictions should thus be overturned. We disagree.

We review de novo a challenge to the sufficiency of the evidence. *People v Baskerville*, 333 Mich App 276, 282; 963 NW2d 620 (2020). In doing so, we view the evidence in a light most favorable to the prosecution to determine whether a trier of fact could find that the essential elements of the charged crimes "were proven beyond a reasonable doubt." *Id*., quoting *People v Reese*, 491 Mich 127, 139; 815 NW2d 85 (2012). As a reviewing court, we draw all reasonable inferences and make credibility choices in support of the jury verdict, keeping in mind that circumstantial evidence can constitute sufficient proof of the essential elements of the charged crimes. *People v Savage*, 327 Mich App 604, 613-614; 935 NW2d 69 (2019).

Garcia-Tinoco was convicted of two counts of first-degree felony murder, in violation of MCL 750.316(1)(b). The elements of first-degree felony murder are:

> (1) the killing of a person, (2) with the intent to kill, do great bodily harm, or create a high risk of death or great bodily harm with the knowledge that death or great bodily harm was the probable result, (3) while committing, attempting to commit, or assisting in the commission of an enumerated felony. [*People v Lane*, 308 Mich App 38, 57-58; 862 NW2d 446 (2014).]

Because of the difficulty of proving an actor's state of mind, the intent to kill may be inferred from any facts in evidence; minimal circumstantial evidence is sufficient to establish a defendant's intent to kill. *People v Unger*, 278 Mich App 210, 223; 749 NW2d 272 (2008). Intent to kill may also be inferred from the use of a deadly weapon. See *People v Carines*, 460 Mich 750, 759; 597 NW2d 130 (1999). And robbery is an enumerated felony. See MCL 750.316(1)(b).

There is no dispute that someone killed two people in this case. On January 13, 2018, someone shot to death both Flores and Richardson. Dr. Rueben Ortiz-Reyes, who performed autopsies on both, testified that both died from multiple gunshot wounds and that their manners of death were homicide. The first element of first-degree felony murder (a killing) therefore was satisfied.

Garcia-Tinoco's overarching argument relates to identity, which implicates the second and third elements of first-degree felony murder (intent, and commission of an enumerated felony). Identity is an element of every offense. *People v Yost*, 278 Mich App 341, 356; 749 NW2d 753 (2008). Positive identification by witnesses may be sufficient to support a conviction of a crime, and the credibility of identification testimony is a question for the trier of fact that we do not resolve anew. *People v Davis*, 241 Mich App 697, 700; 617 NW2d 381 (2000). Garcia-Tinoco argues there was no physical evidence connecting him to the crime and no testimony from Cooper connecting him to the crime. He also contends he was not at the scene of the crime. In other

words, he argues that there was no evidence that he was there and no evidence that he killed Flores or Richardson. Relying on the required inferences, we disagree.

While Garcia-Tinoco may be correct about the lack of physical evidence and testimony from Cooper, there was sufficient evidence produced at trial to establish that he was present at the murder scene and that he caused the deaths of Flores and Richardson. McCaa testified that he drove Cooper, Reyes, and Garcia-Tinoco in a borrowed car around the corner from the Stirling Road home near a specific house on Robinwood Street where Cooper told him to park. According to McCaa, Cooper and Garcia-Tinoco left the car, and a short time later he heard gunshots. McCaa panicked and drove away, losing control of the car and crashing into a pole. After regaining control of the car, McCaa continued driving and picked up a frantic, panicky Garcia-Tinoco in the street before returning to the Stirling Road home. Drawing reasonable inferences in support of the jury's verdict, McCaa's testimony provided strong circumstantial evidence that Garcia-Tinoco was at the Robinwood Street home and at least participated in the shooting, if not committing the shooting himself.

Reyes similarly testified, adding to this circumstantial evidence of Garcia-Tinoco being present and causing the shooting. He testified that McCaa drove him, Cooper, and Garcia-Tinoco to a nearby house but only Cooper and Garcia-Tinoco exited the car when they reached the house. Like McCaa, Reyes heard gunshots. He testified that McCaa tried to take off but the car slid. Reyes testified that the car crashed but McCaa was able to pull out and keep driving. As they drove, they found Garcia-Tinoco, who got in the car, and they went back to the Stirling Road home. Both McCaa and Reyes, then, clearly identified Garcia-Tinoco as being present at the scene of the murders.

Garcia-Tinoco contends that Reyes's and McCaa's testimony cannot be relied upon because Reyes was given immunity in exchange for his testimony, and McCaa was given a favorable plea and sentence agreement in exchange for his testimony. However, these facts were made known to the jury, and it is up to the jury to evaluate the credibility of witnesses. *People v Montague*, 338 Mich App 29, 45; 979 NW2d 406 (2021). This is true specifically for the credibility of identification testimony as well as all other credibility determinations. *Davis*, 241 Mich App at 700. "This Court may not interfere with the jury's resolution of credibility disputes." *People v DeLisle*, 202 Mich App 658, 660; 509 NW2d 885 (1993), citing *People v Vaughn*, 186 Mich App 376, 380; 465 NW2d 365 (1990).

Moreover, the jury also heard Parks's testimony, which when combined with Deputy Lodge's later testimony about booking Garcia-Tinoco, provided high-confidence evidence of identity. Parks testified that upon returning to the Robinwood Street home on January 13, 2018, he heard gunshots. Pulling into the driveway, he saw a man wearing black gloves in the doorway of the home fire two shots at Flores then run outside. Parks accelerated his car, hitting the gunman, and throwing him onto the hood of the car. He did not identify Garcia-Tinoco as the gunman, but his testimony contributed to other evidence that did.

Specifically, Deputy Lodge of the Oakland County Sheriff's Department testified that she booked Garcia-Tinoco into the Oakland County Jail after his arrest on January 14, 2018. According to Deputy Lodge, when she asked Garcia-Tinoco if he had any medical conditions the jail needed to be aware of he said, "after I shot those two people I was hit by a car." Lodge testified

that she was certain that what she typed in her booking report was 100% accurate because she was typing it as Garcia-Tinoco spoke to her. Therefore, Garcia-Tinoco's own admission to Lodge places him at the scene of the murders. So even without Reyes's and McCaa's testimony, there was still sufficient positive identification of Garcia-Tinoco to support his convictions. See *Yost*, 278 Mich App at 356; *Davis*, 241 Mich App at 700.

Turning from identification to the second element of first-degree felony murder, intent to kill or create a high risk of death, see *Lane*, 308 Mich App at 57-58, we conclude that there was sufficient evidence of intent. A jury may infer an intent to kill from the use of a deadly weapon. *Carines*, 460 Mich at 759. There was also sufficient evidence that, during this incident, Garcia-Tinoco possessed and used the firearm that was identified as having been used to kill Flores and Richardson. Nearly every other individual present at the Stirling Road home that evening placed the gun in Garcia-Tinoco's hand. Bridges, whose car McCaa later borrowed to drive Cooper and Garcia-Tinoco, testified that she went to the Stirling Road home on the evening of January 13, 2018. According to Bridges, when she arrived, Garcia-Tinoco was at the house, sitting at the kitchen table with a handgun sitting on the table next to his right side. McCaa also testified that on the same day, he saw Garcia-Tinoco with a black handgun on his person and Cooper with a BB gun. Reyes also testified that on January 13, 2018, Garcia-Tinoco had a gun with him at the Stirling Road home and Cooper had a BB gun. Reyes testified that when he, Cooper, McCaa, and Garcia-Tinoco got into the car to drive to the robbery scene, Garcia-Tinoco had the gun and Cooper had the BB gun.

Further, Adams testified that he was at the Stirling Road home where he resided on January 13, 2018, when several people, including Garcia-Tinoco, came over. Adams testified that at one point late that night, Garcia-Tinoco, who was in the kitchen, said he was going to take a shower. While Garcia-Tinoco was in the shower, Cooper walked up the driveway with blood all over his pants and a black eye. Cooper told Adams the he had gotten into a fight with someone and that Garcia-Tinoco had shot at the people where he and Cooper had been.

Circumstantial evidence also links Garcia-Tinoco with the gun used in the double homicide. Sergeant Eric Hix of the Oakland County Sheriff's Department testified that, while helping to investigate a double homicide that occurred on January 13, 2018, at a house on Robinwood Street in Pontiac, Michigan, he found an unloaded .45 caliber handgun in the toilet tank. Robert Charlton, a firearm tool mark examiner for the Oakland County Sheriff's Department, testified that he collected 10 fired shell casings from the murder scene on Robinwood in the early morning of January 14, 2018. According to Charlton, all were from a .45 caliber handgun. Charlton compared the shell casings to the .45 caliber handgun that was seized from the Stirling Road home; all 10 shell casings proved to have come from that gun. And, when Garcia-Tinoco was arrested, there were two .45 live bullets in a metal case near him.

When combined, this evidence is sufficient for a reasonable jury to find that Garcia-Tinoco possessed a handgun in the Stirling Road home before the murders, possessed a handgun on his person in the car on the way to the murders, and shot both Flores and Richardson. The testimony is also sufficient for a jury to find that Garcia-Tinoco shot and killed Flores and Richardson with the intent to kill, or created a high risk of death with the knowledge that death was the probable result, given the use of a deadly weapon and the testimony at trial. The second element necessary to prove first-degree felony murder was thus also established. See *Lane*, 308 Mich App at 57-58.

Finally, there was sufficient evidence of third element for first-degree felony murder, that Garcia-Tinoco killed Richardson and Flores while committing, attempting to commit, or assisting in the commission of robbery, see *Lane*, 308 Mich App at 57-58. McCaa testified that when he was at the Stirling Road home on January 13, 2018, with Cooper, Garcia-Tinoco, and Reyes, Cooper several times brought up wanting to rob an individual by using counterfeit money. McCaa testified that Garcia-Tinoco initially did not want to do so but eventually agreed. Reyes also testified that when he was at the Stirling Road home on January 13, 2018, Cooper wanted to rob someone, and although no one else wanted to do so, after Cooper's continued nagging, they (including Garcia-Tinoco) agreed to do it. In addition, Deputy Charles Janczarek of the Oakland County Sheriff's Department testified that when he arrested Garcia-Tinoco on January 14, 2018, Garcia-Tinoco had three counterfeit $20 bills and a pair of black work gloves in his pants pocket. Because a reasonable jury could conclude from the testimony at trial that Garcia-Tinoco was participating in a robbery of Flores when he shot and killed Flores and Richardson, the third element of first-degree felony murder has been established. Thus, viewing the evidence in a light most favorable to the prosecution, a trier of fact could find that the essential elements of first-degree felony murder were proven beyond a reasonable doubt, and there was thus sufficient evidence to convict Garcia-Tinoco of the charged crimes.

III. PROPORTIONALITY

Garcia-Tinoco also argues that his murder sentences are disproportionate given his age at the time of the crimes, that he was present for a robbery only due to the heavy influence of a much older person, and that this much older person, codefendant Cooper, received a 25-year prison sentence compared to Garcia-Tinoco's 38 to 60-year sentences.

We review whether a trial court violated the principle of proportionality (i.e., whether the sentence imposed is reasonable) for an abuse of discretion. *People v Steanhouse*, 500 Mich 453, 459-460; 902 NW2d 327 (2017). "At its core, an abuse of discretion standard acknowledges that there will be circumstances in which there will be no single correct outcome; rather, there will be more than one reasonable and principled outcome." *People v Babcock*, 469 Mich 247, 269; 666 NW2d 231 (2003). "A trial court necessarily abuses its discretion if it imposes a sentence that violates the principle of proportionality." *People v Copeland*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 363925); slip op at 3, citing *People v Dixon-Bey*, 321 Mich App 490, 520; 909 NW2d 458 (2017). The principle of proportionality requires that every sentence be tailored to the individual defendant; the sentence imposed must be proportionate to the seriousness of the offense and the background of the offender. *Copeland*, ___ Mich App at ___; slip op at 3, citing *Steanhouse*, 500 Mich at 472. We review a trial court's factual findings for clear error. *People v Johnson*, 293 Mich App 79, 90; 808 NW2d 815 (2011). We also note that "[l]egislatively mandated sentences are presumptively proportional and presumptively valid." *People v Brown*, 294 Mich App 377, 390; 811 NW2d 531 (2011). "In order to overcome the presumption that the sentence is proportionate, a defendant must present unusual circumstances that would render the presumptively proportionate sentence disproportionate." *People v Burkett*, 337 Mich App 631, 637; 976 NW2d 864 (2021).

If, as here, the prosecution does not move for a sentence of life imprisonment without the possibility of parole,[2] then the trial court must sentence the defendant to a term of years. See *Copeland*, ___ Mich App at ___; slip op at 3. See also MCL 769.25(4). The advisory sentencing guidelines do not apply to such a case. See MCL 769.25. Instead, the statute requires the trial court, under such circumstances, to sentence the defendant to a term of imprisonment "for which the maximum term shall be not less than 60 years and the minimum term shall be not less than 25 years or more than 40 years." See MCL 769.25(9).

In *People v Boykin*, 510 Mich 171, 189; 987 NW2d 58 (2022), our Supreme Court held that when sentencing a juvenile defendant to a term-of-years sentence under such circumstances, the sentencing court must still consider youth as a mitigating factor. *Id*. (addressing sentencing under MCL 769.25a, the companion statute to MCL 769.25). We recently distilled the holding from *Boykin* as follows:

> The Court explained that the touchstone of any sentencing decision is proportionality, which looks to the circumstances of the offense and the background of the offender. [*Boykin*, 510 Mich at 188.] Since a defendant's youth is part of a juvenile defendant's background, courts must consider the characteristics of youth before sentencing a juvenile defendant in order for the resulting sentence to be proportionate. *Id*.
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> In practical terms, this means that courts should consider a defendant's youth as part of the "four basic sentencing considerations" first identified in *People v Snow*, 386 Mich 586; 194 NW2d 314 (1972), which courts must always bear in mind before imposing a sentence. *Boykin*, 510 Mich at 188-189. Those considerations are "(1) 'reformation of the offender'; (2) 'protection of society'; (3) 'disciplining of the wrongdoer'; and (4) 'deterrence of others from committing like offenses.' " *Id*. at 188, quoting *Snow*, 386 Mich at 592. "Youth affects these considerations," *Boykin* explained, such that youth "will inevitably factor into Snow's four considerations." *Boykin*, 510 Mich at 188-189. [*Copeland*, ___ Mich App at ___; slip op at 3.]

In short, *Boykin* "held that trial courts sentencing juvenile defendants are required to consider a defendant's youth and treat it as a mitigating factor, but 'this consideration need not be articulated on the record.' " *Id*., quoting *Boykin*, 510 Mich at 193-194. It does not impose a higher standard of articulation. *Copeland*, ___ Mich App at ___; slip op at 4.

There is no dispute that Garcia-Tinoco was sentenced in accordance with MCL 769.25(9), which mandates that he be sentenced to "a term of imprisonment for which the maximum term shall be not less than 60 years and the minimum term shall be not less than 25 years or more than 40 years." Garcia-Tinoco's sentences were thus legislatively mandated such that he must present

[2] We acknowledge that the prosecution initially moved to sentence Garcia-Tinoco to life imprisonment without the possibility of parole. It later withdrew that motion and argued for a lengthy term-of-years sentence.

unusual circumstances rendering his presumptively proportionate sentence disproportionate. *Burkett*, 337 Mich App at 367. See also *People v Posey*, 512 Mich 317, 351; 1 NW3d 101 (2023). Instead, Garcia-Tinoco argues that, within that legislatively mandated range, the trial court inadequately accounted for his age and relative culpability of his codefendant, Cooper. We disagree.

Garcia-Tinoco first argues that when imposing sentence, the trial court did not take into consideration that he was 17 years old when he committed the crimes, and he was lured into participating in the robbery by an older friend. However, Garcia-Tinoco's age at the time of the murders was brought up numerous times during sentencing and "if the prosecution does not move for life without the possibility of parole . . . there is no statutory support for requiring trial courts to articulate the mitigating factors of defendant's youth on the record." *Boykin*, 510 Mich at 191. Here, although the trial court did not explicitly articulate youth as a mitigating factor, it did consider it. The trial court explicitly considered Garcia-Tinoco's mental capacity, education, and sophistication. It addressed his relative youth indirectly in the context of his pretrial and presentence incarceration. This was sufficient.

Garcia-Tinoco also argues that his sentences were disproportionate because his codefendant, Cooper, got sentenced to only 25 years in prison. First and foremost, the evidence at trial overwhelmingly placed the gun that killed Flores and Richardson in Garcia-Tinoco's hand, not Cooper's. Second, Cooper's sentence was the result of a plea agreement. More importantly, "the trial court is not required to consider the sentence of a codefendant" during a defendant's sentencing. *People v Colon*, 250 Mich App 59, 64; 644 NW2d 790 (2002). "Sentences must be individualized and tailored to fit the circumstances of the defendant and the case." *Id*. (quotation marks and citation omitted).

In this case, the evidence at trial established that Garcia-Tinoco shot Flores eight times and shot Richardson twice in the presence of two young children. Evidence further established that during trial, Garcia-Tinoco contacted McCaa and attempted to convince him to blame everything on Cooper. During sentencing, the trial court also noted that Garcia-Tinoco had been "acting out" a lot during his time in jail thus far, indicating that Garcia-Tinoco still had issues controlling his aggressive behavior even when under supervision. In sum, Garcia-Tinoco has presented no unusual circumstances that render his presumptively proportionate sentences disproportionate. On the contrary, the trial court's sentence appears to satisfy the requirements of proportionality and reasonableness.

We affirm.

/s/ Colleen A. O'Brien
/s/ Stephen L. Borrello
/s/ Noah P. Hood