

**THIS APPEAL INVOLVES A DELINQUENT MINOR PROCEEDING
UNDER THE JUVENILE COURT ACT**

No. 125680

IN THE

SUPREME COURT OF ILLINOIS

IN THE INTEREST OF J.M.A., a
minor,

Petitioner-Appellant.

) Appeal from the Appellate Court
) of Illinois, No. 3-19-0346.

)
) There on appeal from the Circuit
) Court of the Fourteenth Judicial
) Circuit, Rock Island County,
) Illinois, No. 18 JD 113.

)
) Honorable
) Theodore Kutsunis,
) Judge Presiding.

BRIEF AND ARGUMENT FOR PETITIONER-APPELLANT

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POINT AND AUTHORITIES

The circuit court violated the Juvenile Court Act by committing J.M.A. to the IDOJJ where the court (A) did not find, either expressly as required by the Act or otherwise, that IDOJJ commitment was the least restrictive alternative and (B) did not review services within the IDOJJ that would meet J.M.A.’s individualized needs, especially his need for mental-health treatment.

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A. The circuit court violated the Juvenile Court Act by committing J.M.A. to the IDOJJ without first finding, either expressly as required by the Act or otherwise, that commitment to the IDOJJ was the least restrictive alternative.

705 ILCS 405/5-750 (2018)	15
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1. The plain language of the Juvenile Court Act requires that the circuit court make an express finding that IDOJJ commitment is the least restrictive alternative before committing a child to the IDOJJ.

705 ILCS 405/5-750 (2018)	16
705 ILCS 405/5-750(1) (2018)	16, 17
705 ILCS 405/5-705(4) (2018)	17
<i>People v. Perry</i> , 224 Ill. 2d 312 (2007)	17

2. The requirement of an express finding furthers the legislature’s intent, accomplishes the Act’s purpose, and promotes judicial economy.

705 ILCS 405/5-101(1)(c) (2018)	18
705 ILCS 405/5-101(2)(a), (d) (2018)	18
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Patrick McCarthy, Vincent Schiraldi, & Miriam Shark, <i>The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model</i> , New Thinking in Community Corrections (Oct. 2016)	21
Richard A. Mendel, <i>No Place for Kids, The Case for Reducing Juvenile Incarceration</i> , The Annie E. Casey Foundation (2011)	22
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Juvenile Justice Initiative, <i>Detention of Juveniles In Illinois</i> (May 4, 2018)	23
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Office of the Independent Juvenile Ombudsperson, Illinois Department of Juvenile Justice, “ <i>How are the Children?</i> ”, Annual Report State Fiscal Year 2018	22

Development Services Group, Inc., <i>Intersection Between Mental Health and the Juvenile Justice System: Literature Review</i> , Office of Juvenile Justice and Delinquency Prevention (2017)	23
John Howard Association, <i>Monitoring Report on IYC–St. Charles</i> (2015)	23
<i>Juvenile Delinquency Guidelines: Improving Court Practice in Juvenile Delinquency Cases</i> , National Council of Juvenile and Family Court Judges, (2005)	25

3. The circuit court did not make an express finding.

<i>In re S.G.</i> , 175 Ill. 2d 471 (1997)	26
<i>In re J.M.A.</i> , 2019 IL App (3d) 190346	26
<i>In re Raheem M.</i> , 2013 IL App (4th) 130585	26

4. It cannot be inferred from the record that the circuit court found that IDOJJ commitment was the least restrictive alternative.

55 ILCS 5/3-6039 (2018)	29
55 ILCS 5/3-6039(b)(1) (2018)	29
55 ILCS 5/3-6039(c) (2018)	29
705 ILCS 405/5-710(1)(a)(i) (2018)	28
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705 ILCS 405/5-715(2)(d)–(e) (2018)	28
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B. The circuit court violated the Juvenile Court Act by committing J.M.A. to the IDOJJ without first reviewing services within the IDOJJ that will meet J.M.A.’s individualized needs.	
705 ILCS 405/5-101(1)(c) (2018)	33, 38
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705 ILCS 405/5-750(1)(b)(G) (2018)	31
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<i>In re Justin F.</i> , 2016 IL App (1st) 153257.	32
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Carol A. Schubert & Edward P. Mulvey, <i>Behavioral Health Problems, Treatment, and Outcomes in Serious Youthful Offenders</i> , <i>Juvenile Justice Bulletin</i> , United States Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, June 2014	37
Margaret H. Sibley, et al., <i>The Delinquency Outcomes of Boys with ADHD with and without Comorbidity</i> , 39 <i>Journal of Abnormal Child Psychology</i> 21 (2011)	36
Black’s Law Dictionary (11th ed. 2019)	31
Mayo Clinic, <i>Oppositional defiant disorder (ODD)</i> , https://www.mayoclinic.org/diseases-conditions/oppositional-defiant-disorder/symptoms-causes/syc-20375831 (last accessed April 3, 2020).	34, 37
Mayo Clinic, <i>Adult attention-deficit/hyperactivity disorder (ADHD)</i> , https://www.mayoclinic.org/diseases-conditions/adult-adhd/symptom-s-causes/syc-20350878 (last accessed April 3, 2020)	34, 37
American Academy of Child & Adolescent Psychiatry, <i>ODD: A Guide for Families</i> , 2009	36

NATURE OF THE CASE

At age 14, J.M.A. pleaded guilty to the offenses of unlawful possession of a stolen firearm, unlawful possession of a stolen motor vehicle, and theft. The circuit court found him delinquent and committed him to the Illinois Department of Juvenile Justice (IDOJJ) for an indeterminate period not to exceed 7 years, or to his 21st birthday, whichever occurred first.

On appeal, a majority of the Illinois Appellate Court, Third Judicial District, affirmed the circuit court's adjudication of delinquency and dispositional order in a published opinion. *In re J.M.A.*, 2019 IL App (3d) 190346, ¶ 58. The majority rejected J.M.A.'s arguments that the circuit court violated the Juvenile Court Act by committing him to the IDOJJ where the court (1) did not expressly find that IDOJJ commitment was the least restrictive alternative and (2) did not review services within the IDOJJ that would meet his individualized needs. *Id.*, ¶¶ 25–45. The dissenting justice disagreed with the majority, opining that the circuit court violated the Act by failing to both make an express finding and review evidence of services offered by the IDOJJ that would meet J.M.A.'s individualized needs. *Id.*, ¶¶ 62–71 (McDade, J., dissenting).

No issue is raised concerning the sufficiency of the pleadings.

ISSUE PRESENTED FOR REVIEW

Whether the circuit court violated the Juvenile Court Act by committing J.M.A. to the IDOJJ where the court (A) did not find, either expressly as required by the Act or otherwise, that IDOJJ commitment was the least restrictive alternative and (B) did not review services within the IDOJJ that would meet J.M.A.'s individualized needs, especially his need for mental-health treatment.

JURISDICTION

Jurisdiction lies with this Court under Supreme Court Rules 315 and 612(b). This Court allowed J.M.A.'s timely petition for leave to appeal on March 4, 2020. *In re J.M.A.*, No. 125680 (Mar. 4, 2020).

STATUTES INVOLVED

705 ILCS 405/5-750 (2018)

§ 5-750. Commitment to the Department of Juvenile Justice.

(1) Except as provided in subsection (2) of this Section, when any delinquent has been adjudged a ward of the court under this Act, the court may commit him or her to the Department of Juvenile Justice, if it finds that (a) his or her parents, guardian or legal custodian are unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor, or are unwilling to do so, and the best interests of the minor and the public will not be served by placement under Section 5-740, or it is necessary to ensure the protection of the public from the consequences of criminal activity of the delinquent; and (b) commitment to the Department of Juvenile Justice is the least restrictive alternative based on evidence that efforts were made to locate less restrictive alternatives to secure confinement and the reasons why efforts were unsuccessful in locating a less restrictive alternative to secure confinement. Before the court commits a minor to the Department of Juvenile Justice, it shall make a finding that secure confinement is necessary, following a review of the following individualized factors:

* * *

(G) Services within the Department of Juvenile Justice that will meet the individualized needs of the minor.

705 ILCS 405/5-705(4) (2018)

§ 5-705. Sentencing hearing; evidence; continuance.

(4) When commitment to the Department of Juvenile Justice is ordered, the court shall state the basis for selecting the particular disposition, and the court shall prepare such a statement for inclusion in the record.

STATEMENT OF FACTS

In August 2018, a delinquency petition was filed alleging that 14-year-old J.M.A. violated the Juvenile Court Act by committing the following offenses: unlawful possession of a stolen motor vehicle (three offenses), unlawful possession of stolen property, forgery, unlawful possession of a stolen firearm, aggravated unlawful use of a weapon, and theft (C12–13, 28–30).

On August 15, 2018, the circuit court found probable cause to believe J.M.A. was delinquent and ordered that he be detained in the temporary custody of the Mary Davis Home (R82–88; C23).

A Mary Davis behavior report was filed on August 22, 2018. It provided that J.M.A. was doing “well” since his arrival. He was quiet, compliant, and polite. He had no behavior incidents. His average daily grade was a 3.8, which was a solid B. It was noted that J.M.A. could only receive a 4.0 (B) on a scale of 5.0 because he was on a restriction that carried over from a prior stay (C27).

On September 4, 2018, a second behavior report was filed, addressing J.M.A.’s behavior from August 22 to September 4. It provided that his current grade was a 2.8, which was a C. His behavior had been “ok.” His grade was lowered because he talked through his door. His behavioral issues were mainly due to “silliness and getting caught up in the antics of peers.” He was polite and respectful to his counselor. He needed to mature and could make a stronger effort toward better behavior. He chose not to engage in severely poor behavior when others had (C32).

On September 10, 2018, a third behavior report was filed, addressing J.M.A.’s behavior from September 2 through September 9. J.M.A. earned a 3.4

that week, which was just shy of a B (3.5). He acted “silly” at times but otherwise behaved well. He was not deviant or malicious. Although he was told at times not to talk through his door, there were no negative incidents. He interacted well with peers and staff. He had productive conversations about making better decisions (C35).

On September 11, 2018, J.M.A. entered into a plea agreement: he admitted the allegations of counts IV (unlawful possession of a stolen firearm), VI (unlawful possession of a stolen motor vehicle), and VII (theft) in exchange for the dismissal of the remaining counts (R3–7, 15–16; C35–36).

As a factual basis for the plea, the prosecutor stated that on August 14, 2018, the Rock Island Police helped the owner of a 2014 Chevrolet Cruze locate her iPhone and vehicle by using the tracker on her iPhone. The tracker directed the officers to a residence where they approached the owner and met with “the mother of one of the other minors.” The iPhone was brought to the officers. J.M.A. and several other minors were in a bedroom. The police searched J.M.A and found a gun in his pocket. J.M.A. later admitted “to driving that vehicle.” While in detention, J.M.A. said “the only things he should be held accountable for would be the gun and the iPhone” (R2–15). The court ultimately accepted J.M.A.’s plea as knowing and voluntary (R15–16; C36).

A social history report was filed on October 5, 2018 (C51 *et seq.*). It provided that J.M.A. was born on October 14, 2003. He lived with his mother, who was a single parent, and his three siblings (C51, 58–59). J.M.A.’s mother had multiple prior criminal convictions, including for theft (C59). His father was incarcerated and had no relationship with J.M.A. (C60). In both August 2007 and November

2009, J.M.A. had been the subject of child protective service assessments by the Iowa Department of Human Services (IDHS). In February 2010, J.M.A. was the subject of an IDHS petition for a child in need of assistance (C56).

As a three-year-old, J.M.A. was hyperactive, aggressive, defiant, and impulsive. He exhibited risky behavior and poor judgment (C117). He was diagnosed with oppositional defiant disorder (ODD) (C117). J.M.A. was to undergo therapy when he was three years old, but he and his mother twice failed to appear for therapy (C118). They then missed multiple mental-health evaluations in 2007 and 2008, when J.M.A. was three and four years old (C118).

At age six, J.M.A. was diagnosed with attention deficit hyperactivity disorder (ADHD). His mother expressed frustration that he had not been prescribed medication. When the Vera French Mental Health Center's staff tried to give the mother an appointment, she refused and left the office (C117). J.M.A.'s mother continued the pattern of not bringing J.M.A. to his necessary treatment when he was six years old, missing two appointments. They eventually arrived late to an appointment at Vera French on December 1, 2009. During the appointment, it was recommended that J.M.A. receive Focalin XR to address his ADHD. It was also recommended that he receive individual therapy (C117). Vera French staff saw J.M.A. again the next month. He showed "severe behavior issues that had not been addressed due to lack of follow through by the mother" (C118). Vera French staff recommended that J.M.A. continue the medication and obtain intensive, consistent in-home service (C118).

Vera French staff then lost contact with J.M.A. and his mother for three years. They next saw J.M.A. on March 26, 2013, when he was 9 years old. J.M.A.'s

mother reported that they had just moved back from Minnesota, where J.M.A. “was not seen by anybody” (C118). Vera French staff recommended in-home services and being placed back on Focalin XR (C118). Vera French staff saw J.M.A. again in April 2013, noting “non-compliance with medications” (C118). They recommended that J.M.A. continue Focalin XR and that he return in two to three weeks. In April 2014, Vera French staff closed J.M.A.’s outpatient-services case for the following reason: “unable to make contact with patient—lack of follow through with treatment.” J.M.A. was 10 years old (C118).

J.M.A. received a mental-health assessment on July 9, 2018, at the Robert Young Mental Health Center. His mother reported that when he was not on his medication, “everything would go wrong” (C57). His current medications were Focalin XR and Mirtazapine. It was recommended that J.M.A. “engage in psychiatry services in order to stabilize and manage his mental health symptoms” (C57). Without the recommended psychiatry services, it was likely that J.M.A. would require a “higher level of care” (C57). Both J.M.A. and his mother reported that J.M.A. had bipolar disorder (C61; R53).

J.M.A.’s mother reported that J.M.A. disobeyed rules and that there were no rules in the home (C60). She opined that the family environment was unpredictable and stressful due to a strained parent-child relationship and J.M.A.’s antisocial attitude and mental disorders (C59–60). J.M.A. reported that his mother would “cuss him out” when he was in trouble (C59). J.M.A. performed poorly at school (C60). He associated with all negative peers and “the wrong people” (C62). However, he reported that everyone should follow the law. And he

acknowledged a need to change his “ways” (C62). He wanted to graduate high school and own a car dealership (C62).

J.M.A.’s juvenile record consisted of the following: three thefts, criminal mischief, and attempted burglary of a motor vehicle, for which he received sentences of probation (C52–53). While under home detention in December 2017, J.M.A. removed an ankle-bracelet monitoring device (C56).

J.M.A. participated in the Rock Island Safer Foundation Impact Program from May 29, 2018, until his unsuccessful discharge in August 2018. During the months of May and June, his attendance rate was 92%. He participated in aggression-replacement training groups, life-skills groups, physical-activity projects, and community-service projects. J.M.A. and his mother attended a family night that addressed crime response and prevention. However, J.M.A.’s attendance in July dropped to 50%. When J.M.A. did attend, he would sleep or have his head down, purportedly due to new medications. He was suspended from services on July 27, 2018, because he missed 5 out of 10 days of the program (C126–27).

The juvenile intake officer recommended that the court sentence J.M.A., who was still 14 years old, to an indeterminate sentence in the Illinois Department of Juvenile Justice (IDOJJ), where “[t]he minor can receive services to address poor decision making skills in a highly structured and confined setting” (C64).

On November 2, 2018, a fourth behavior report was filed, addressing J.M.A.’s behavior since September 9, 2018. J.M.A. had shown average behavior: a 3.0 and a C. According to the assistant superintendent of the Mary Davis home, J.M.A. was very capable of, and could have been, doing better but chose not to. His behavior was inconsistent. There were days when he earned Bs and days

when he earned anywhere from a C to an F. He received “consequences” for refusing to cooperate and escalated the situation when he refused. On September 25, he talked through a door and “attempted to incite a riot when confronted.” The same thing happened on October 8. He also talked through his door on October 9, but he responded appropriately when confronted. He tried with his schoolwork but struggled academically. According to the assistant superintendent, J.M.A. focused too much on his peers and when confronted, behaved poorly and become moody. He needed to make impressing his peers less of a priority (C128).

The court conducted a sentencing hearing the same day (R44 *et seq.*). J.M.A.’s mother testified that J.M.A. had been diagnosed with chronic bipolar disorder, ODD, ADHD, and ADD (R53). J.M.A. had seen several psychiatrists in different cities because she moved quite a bit (R53–54). She and J.M.A. missed mental-health appointments due to the moves, financial issues, and his legal troubles (R54–55). J.M.A.’s academic skills were “kind of low” because he was unable to comprehend “the way a child his age is supposed to comprehend. It takes him a little bit longer to understand anything” (R52–53). Her source of income was J.M.A.’s disability checks (R56). She was not currently employed (R56). With her insurance, she was receiving free transportation to J.M.A.’s appointments through Care for Kids (R55). She could make arrangements with Care for Kids, and J.M.A. could have psychiatric evaluations with the Robert Young Center, which she believed would be covered by her insurance (R55–56).

The court found J.M.A. delinquent. It also found that his mother was “unable to care, protect, train, or discipline” him and that it was in the best interests of J.M.A. and the public that he be a ward of the court (R70). The court said that

it had read the social history report (R70). It opined that J.M.A.'s mother was overwhelmed (R70–71). It did not think J.M.A. knew right from wrong, emphasizing that he put others and their property at risk (R72). The court said that it had “looked at the alternatives that could be imposed” but the IDOJJ was necessary to protect the public (R72). The court stated that reasonable efforts had been made to prevent or eliminate the need for J.M.A. to be removed from the home (R72). It also stated that secure confinement was necessary and listed the following factors it stated it had reviewed: J.M.A.'s age, his criminal background, assessments of J.M.A., his educational background, services provided to J.M.A., disciplinary incidents, J.M.A.'s mental and emotional health, and community service and compliance (R72–73). The court said that it was finding that services within the IDOJJ would meet J.M.A.'s individualized needs (R73).

The court sentenced J.M.A. to an indeterminate period of commitment in the IDOJJ not to exceed 7 years, or to his 21st birthday, whichever occurred first (R73; C130–32). The court also ordered restitution and dismissed the remaining counts on the State's motion (R74, 76; C129).

The court issued a *pro forma* order of commitment (C130–32). The order included, *inter alia*, the following statements, which had boxes beside them with a handwritten “X” inside: “Commitment to the [IDOJJ] is necessary to ensure the protection of the public from the consequences of criminal activity of the delinquent” and “Reasonable efforts have been made to prevent or eliminate the need for the minor to be removed from the home AND/OR Reasonable efforts cannot, at this time, for good cause, prevent or eliminate the need for removal” (C130). The *pro forma* order also contained the following preprinted statements,

which did not have boxes beside them as the prior statements did: “Removal from home is in the best interests of the minor, the minor’s family, and the public” and “Commitment to the Department of Juvenile Justice is the least restrictive alternative based on evidence that efforts were made to locate less restrictive alternatives to secure confinement and those efforts were unsuccessful because: [a three-line space to provide an explanation was left blank]” (C130).

The *pro forma* order provided that the court found secure confinement was necessary after a review of the following factors: the age of the minor; the criminal background of the minor; any assessments of the minor; the minor’s educational background; the minor’s physical, mental, and emotional health; community-based services that had been provided to the minor; and “Services within the Department of Justice that will meet the individualized needs of the minor” (C130). Consistent with the court’s oral statements at sentencing, the order provided for commitment to the IDOJJ for an indeterminate period not to exceed 7 years, or to J.M.A.’s 21st birthday, whichever occurred first (C130–32).

On November 20, 2018, J.M.A. filed a motion to reconsider sentence, which the court denied on January 24, 2019 (C135 *et seq.*; R102 *et seq.*). On April 4, 2019, the appellate court remanded for new proceedings in strict compliance with Supreme Court Rule 604(d) due to defense counsel’s failure to file a Rule 604(d) certificate. The appellate court ordered that “all prior proceedings on the post-plea motion are a nullity” (C163).

On June 14, 2019, J.M.A. filed a new motion to reconsider sentence, arguing that the court had erred by committing him to the IDOJJ (C166–70). J.M.A. insisted

that there was no evidence of efforts having been made to locate less-restrictive alternatives and that the court's entry of a *pro forma* order was error. J.M.A. stressed that there was no evidence showing that the IDOJJ would meet his individualized needs, which included the need for mental-health services. Indeed, there was no evidence at all about what services existed at the IDOJJ (C166–70).

The circuit court denied the motion the same day (R118, 125; C172). It stated that probation and in-home detention with an ankle monitor had been unsuccessful in the past (R123). Further, J.M.A.'s mother could not control him (R123–24). In a short period, J.M.A. had committed “more serious crimes” (R124). His family was dysfunctional (R124). The court said that “they ha[d] attempted the least strenuous or severe sentences to try to rehabilitate” J.M.A. (R124). The court opined that “a secure sentence to a facility like Mary Davis could be in order” but the time period at Mary Davis was not “long enough for him to address the issues that he really needs to address” (R124). J.M.A. needed “a structured environment,” which would be provided by the IDOJJ (R124). The court added: “He also needs to be rehabilitated from his bad behavior issues, and I think they do have the services to try to do that” (R124–25). The court concluded that a sentence to the IDOJJ was “the most appropriate sentence under the circumstances” (R125).

The appellate court affirmed J.M.A.'s delinquency adjudication and sentence in a published opinion on December 31, 2019. *In re J.M.A.*, 2019 IL App (3d) 190346, ¶ 58. Noting that the circuit court did not expressly find that IDOJJ commitment was the least restrictive alternative, the majority opined that such a finding need not be inferred as it was clear from the circuit court's “commentary,”

which explained that probation and in-home detention had been unsuccessful, J.M.A.'s mother could not control J.M.A., and short-term detention at Mary Davis was not appropriate. *Id.*, ¶¶ 25–27, 30. The majority emphasized the circuit court's conclusion that IDOJJ commitment was "the most reasonable sentence." *Id.*, ¶ 25. The majority voiced its disagreement with other districts of the appellate court that had held that a court must expressly find that IDOJJ commitment is the least restrictive alternative before it orders such commitment. *Id.*, ¶ 31.

The majority then concluded that the circuit court properly considered whether IDOJJ services would meet J.M.A.'s individualized needs because the social history report provided that J.M.A. had "poor decision-making skills" and that the IDOJJ had services to address "poor decision making." *Id.*, ¶ 40. The majority opined that the juvenile intake officer who authored the social history report was in a "far better position than the court" to speak to J.M.A.'s needs and the IDOJJ's services. *Id.*, ¶ 41. Finally, the majority held that the circuit court had not erred by failing to address J.M.A.'s mental-health needs and opined that the social history report failed to indicate a nexus between J.M.A.'s behavioral mental-health disorders and his delinquent behavior. *Id.*, ¶¶ 44–45.

In a dissenting opinion, Justice McDade concluded that the circuit court violated the Juvenile Court Act by failing to find that IDOJJ commitment was the least restrictive alternative as the Act's plain language required. *Id.*, ¶¶ 62–65 (McDade, J., dissenting). Justice McDade emphasized that the Act requires courts to make an express finding to ensure that children are not committed to the IDOJJ when less restrictive alternatives are available and to prevent reviewing courts from divining the meaning behind a circuit court's connotations and insinuations.

Id. Justice McDade characterized as “demonstrably false” the majority’s claim that it did not infer that the circuit court found IDOJJ commitment to be the least restrictive alternative. *Id.*, ¶ 64 (McDade, J., dissenting).

Justice McDade also concluded that the circuit court failed to review services within the IDOJJ that would meet J.M.A.’s individualized needs. *Id.*, ¶¶ 66–71 (McDade, J., dissenting). Justice McDade stressed that “if it had, it surely would have reached the conclusion that no evidence concerning the IDOJJ services that might meet those needs was ever introduced.” *Id.*, ¶ 66 (McDade, J., dissenting). Referencing the circuit court’s statements that J.M.A. needed to improve his decision making and that “the services within the [IDOJJ] will meet the individualized needs of the minor,” Justice McDade insisted that “[t]o find such bromides satisfy the ‘individual need’ requirement set forth in the Act is to render that statutory requirement utterly meaningless.” *Id.*, ¶ 67 (McDade, J., dissenting). Justice McDade emphasized that the record was “replete” with references to J.M.A.’s mental-health struggles and that they undeniably impacted his behavior. *Id.*, ¶ 69 (McDade, J., dissenting). However, the majority dismissed J.M.A.’s mental-health issues. *Id.*, ¶ 70 (McDade, J., dissenting). And the circuit court not only failed to receive evidence of IDOJJ services that could help J.M.A. with his mental-health disorders but failed to even reference his mental-health issues. *Id.*, ¶¶ 70–71 (McDade, J., dissenting).

This Court allowed J.M.A.’s petition for leave to appeal on March 4, 2020 (A-25).

The circuit court violated the Juvenile Court Act by committing J.M.A. to the IDOJJ where the court (A) did not find, either expressly as required by the Act or otherwise, that IDOJJ commitment was the least restrictive alternative and (B) did not review services within the IDOJJ that would meet J.M.A.’s individualized needs, especially his need for mental-health treatment.

STANDARD OF REVIEW

Generally, this Court reviews a circuit court’s decision to commit a minor to the IDOJJ for an abuse of discretion. *In re Griffin*, 92 Ill. 2d 48, 54 (1982). However, whether the circuit court complied with the requirements of the Juvenile Court Act is a question of law subject to *de novo* review. See *In re Marriage of Donald B. & Roberta B.*, 2014 IL 115463, ¶ 29 (reviewing compliance with statutory requirements as a question of law subject to *de novo* review); see also *In re Ashley C.*, 2014 IL App (4th) 131014, ¶ 22 (reviewing a circuit court’s compliance with the Juvenile Court Act as a question of law subject to *de novo* review). Questions of statutory interpretation are also reviewed *de novo*. *In re Christopher K.*, 217 Ill. 2d 348, 364 (2005).

ARGUMENT

Under section 5-750(1) of the Juvenile Court Act (“the Act”), 705 ILCS 405/1-1 *et seq.* (2018), a child adjudged a ward of the court may be committed to the IDOJJ if the circuit court finds that commitment to the IDOJJ is the least-restrictive alternative. The plain language of the Act requires that the finding be an express finding. An express finding promotes the legislature’s intent and judicial economy. Additionally, the court must review services within the IDOJJ that will meet the individualized needs of the minor before it orders IDOJJ

commitment. Conducting a review of IDOJJ services necessarily requires the court to review evidence of the specific services that the IDOJJ offers.

The circuit court in this case did not expressly find that committing J.M.A. to the IDOJJ was the least-restrictive alternative. Indeed, such a finding cannot even be reasonably inferred from the record. Moreover, the court did not review evidence of services within the IDOJJ that will meet J.M.A.'s individualized needs, especially his mental-health needs. Therefore, this Court should vacate J.M.A.'s sentence and remand for resentencing.

A. The circuit court violated the Juvenile Court Act by committing J.M.A. to the IDOJJ without first finding, either expressly as required by the Act or otherwise, that commitment to the IDOJJ was the least restrictive alternative.

The Act is ““a purely statutory creature whose parameters and application are defined solely by the legislature.”” *In re S.G.*, 175 Ill. 2d 471, 490 (1997) (quoting *People v. P.H.*, 145 Ill. 2d 209, 223 (1991)). Section 5-750 of the Act addresses the commitment of children to the IDOJJ. See 705 ILCS 405/5-750 (2018). Section 5-750(1) provides as follows, in pertinent part:

(1) Except as provided in subsection (2) of this Section, when any delinquent has been adjudged a ward of the court under this Act, the court may commit him or her to the Department of Juvenile Justice, if it *finds* that (a) his or her parents, guardian or legal custodian are unfit or are unable, for some reason other than financial circumstances alone, to care for, protect, train or discipline the minor, or are unwilling to do so, and the best interests of the minor and the public will not be served by placement under Section 5-740, or it is necessary to ensure the protection of the public from the consequences of criminal activity of the delinquent; *and (b) commitment to the Department of Juvenile Justice is the least restrictive alternative* based on evidence that efforts were made to locate less restrictive alternatives to secure confinement and the reasons why efforts were unsuccessful in locating a less restrictive alternative to secure confinement.

705 ILCS 405/5-750(1) (2018) (emphasis added).

“The fundamental rule of statutory construction is to ascertain and give effect to the legislature’s intent.” *People v. Jones*, 223 Ill. 2d 569, 580 (2006). “The best indication of legislative intent is the statutory language, given its plain and ordinary meaning.” *Id.* at 581. Where statutory language is clear and unambiguous, this Court applies the statute without resort to further aids of statutory construction. *Id.* Furthermore, when construing a statute, courts should be mindful of the subject that the statute addresses and the legislature’s apparent objective in enacting it. *Id.* at 580–81. A statute must be construed as a whole so that no part is rendered superfluous or meaningless. *Id.* at 581.

1. The plain language of the Juvenile Court Act requires that the circuit court make an express finding that IDOJJ commitment is the least restrictive alternative before committing a child to the IDOJJ.

By its plain language, section 5-750 of the Act sets forth the legal basis for a circuit court to commit a child to the IDOJJ. See 705 ILCS 405/5-750 (2018). Among multiple requirements in section 5-750(1) for a court to lawfully order IDOJJ commitment, the court must first *find* that “commitment to the Department of Juvenile Justice is the least restrictive alternative” 705 ILCS 405/5-750(1) (2018). The Act does not define the terms “find” or “finding.”

At first blush, it may appear that the legislature’s use of the term “finds” is ambiguous because it is susceptible to two different meanings: one requiring an express finding and a second not requiring an express finding. However, reading the Act as a whole, as this Court must do, dispels any notion of ambiguity and compels the conclusion that the legislature intended an express finding.

Significantly, section 5-705(4) of the Act provides as follows: “When commitment to the Department of Juvenile Justice is ordered, the court shall

state the basis for selecting the particular disposition, and the court shall prepare such a statement for inclusion in the record.” 705 ILCS 405/5-705(4) (2018). The meaning of the verb “state” is “to express the particulars of especially in words.” Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/state> (last visited Mar. 24, 2020); see also generally *People v. Perry*, 224 Ill. 2d 312, 330 (2007) (“In determining the plain meaning of a statutory term, it is entirely appropriate to look to the dictionary for a definition.”). Thus, the legislature intended a circuit court to express in words the particulars of its basis for ordering IDOJJ commitment—and to include it in the record.

Again, section 5-750(1) provides the legal basis for ordering IDOJJ commitment. And one element of that legal basis is the requirement of a court finding that IDOJJ commitment be the least restrictive alternative. 705 ILCS 405/5-750(1) (2018). Because the least-restrictive-alternative finding is part of the legal basis that a court needs to lawfully order IDOJJ commitment, it necessarily follows that our legislature intended, and the Act requires, a circuit court to express in words that it has found IDOJJ commitment to be the least restrictive alternative. In other words, the circuit court must make an express finding for inclusion in the record.

Therefore, the plain language of the Act requires circuit courts to expressly find that IDOJJ commitment is the least restrictive alternative before committing a child to the IDOJJ.

2. The requirement of an express finding furthers the legislature’s intent, accomplishes the Act’s purpose, and promotes judicial economy.

Even if this Court were to conclude that the term “finds” is ambiguous, it should still conclude that an express finding is required. An express finding

would further the legislature's intent, as illustrated by not only the Act's plain language but also legislative history, and accomplish the Act's purpose. An express finding would also promote judicial economy.

The purpose of proceedings under the Juvenile Court Act is to correct and rehabilitate, not to punish. *In re Rodney H.*, 223 Ill. 2d 510, 520 (2006). The Act itself provides that the legislature intends to "provide an individualized assessment" of every alleged and adjudicated minor "to rehabilitate and to prevent further delinquent behavior through the development of competency in the juvenile offender." 705 ILCS 405/5-101(1)(c) (2018). In the Act, the legislature expressed the need for "early identification and treatment" of children who commit serious crimes through the development of "early intervention strategies." 705 ILCS 405/5-140(a)–(b) (2018). The Act seeks to develop children's "educational, vocational, social, emotional and basic life skills" to enable them to mature into productive members of society. 705 ILCS 405/5-101(1)(c) (2018). Consequently, this Court has recognized, consistent with the legislature's intent, that the State acts as a *parens patriae* to children under the Act. *In re Derrico G.*, 2014 IL 114463, ¶ 104.

Significantly, the plain language of the Act illustrates a legislative preference that children "reside within their homes whenever possible and appropriate," with supportive assistance if necessary, and for the use of community-based programs designed to prevent delinquent behavior and to minimize a child's involvement with the juvenile justice system. 705 ILCS 405/5-101(2)(a), (d) (2018). The legislature intends IDOJJ commitment to be an absolute last resort. The Act's plain language illustrates this by requiring circuit courts to consider

evidence of sentencing alternatives that are less restrictive than IDOJJ commitment and to find that IDOJJ commitment is the least restrictive alternative available to the child before imposing it. 705 ILCS 405/5-750(1) (2018). See also generally *In re Raheem M.*, 2013 IL App (4th) 130585, ¶ 53 (stating that courts should treat IDOJJ sentences as a last resort).

To be sure, when members of the General Assembly debated the Juvenile Justice Reform Provisions of 1998 before their passage, they predominantly opined that the purpose of the bill was to provide rehabilitative and preventative services to children early in their lives to cut off the “pipeline,” *i.e.*, the process where after entering the juvenile justice system, children later graduate into more serious crimes and adult imprisonment. 90 th Ill. Gen. Assem., Senate Proceedings, Jan. 29, 1998, at 7–42. At the time, Senator Obama emphasized that the intent of the bill was not to incarcerate more children, and he expressed disdain for “lock[ing] kids up” as the “main strategy” for dealing with juvenile crime. *Id.* at 13–14. Senator Hendon echoed Senator Obama’s sentiment, insisting that “[i]t makes no sense at all for us to continue to apply the same old, worn-out ‘lock ‘em up, throw away the key’ philosophy to dealing with these babies.” *Id.* at 17. Senator Jones agreed, stating that “if we’re just going to lock up kids, we’re not solving the problem.” *Id.* at 39. The senator recognized that many children in the juvenile justice system have mental-health problems and can be “saved” with mental-health assistance. *Id.* at 39–40.

The legislature imposed more juvenile justice reforms in 2012. See generally Public Act 97-362 (eff. Jan. 1, 2012). Before the 2012 amendment, section 5-750(1) of the Act specified two circumstances when a court could commit a child to

the IDOJJ: (1) when the court found that the child's parents, guardian, or legal custodian was unfit, unable, or unwilling to care for, train, or discipline the child and that placement would not serve the best interests of the child and the public or (2) when the court found that imprisonment was necessary to protect the public from the child's delinquent activity. See Public Act 96-696 (eff. June 1, 2006).

The 2012 reforms imposed additional requirements for a court to incarcerate a child. The legislature now required courts to have evidence of efforts made to locate less restrictive alternatives to secure confinement and the reasons why those efforts were unsuccessful. On the basis of that evidence, the court then had to then find that IDOJJ commitment was the least restrictive alternative available. Additionally, the court must review seven individualized factors concerning the child, which are itemized in section 5-750(1)(b)(A)–(G). After this review, the court must then find that secure confinement of the child is necessary in light of its review. The court must also find that reasonable efforts have been made to prevent or eliminate the need for the child to be removed from his or her home (or that such efforts could not be made at that time for good cause). And, finally, the court must find that removal from the home is in the best interest of not only the public, but also the child and his or her family. Public Act 97-362 (eff. Jan. 1, 2012).

These changes illustrate that before 2012, the interest of protecting the public overrode the interests of children when the court believed that imprisoning a child was necessary. But in 2012, the legislature shifted its focus and concern—and that of both the State and juvenile courts—to children as individuals. The legislature took action to keep children in their homes and with their families.

It took action to have both the State and courts consider and prioritize sentences that are less restrictive than incarceration. It acted to ensure that a court's decision as to whether to incarcerate a child was dependant on the background and needs of the individual child, not just public safety. And it acted to ensure that courts incarcerate children only as a last resort. To accomplish these things, the legislature imposed new burdens on the court to review certain factors relative to the individual child and to make certain findings on the basis of evidence. Compare Public Act 96-696 (eff. June 1, 2006) with Public Act 97-362 (eff. Jan. 1, 2012). These additional burdens allow the court to make an informed decision at sentencing. Without essential information concerning the child and possible alternatives to incarceration, a court has no choice by to over-rely on incarceration as its only option for a child who needs more structure than his or her home and normal probation can provide.

This new legislative approach to the imprisonment of children is well-grounded in research. It is widely accepted that imprisoning children can do more harm than good, thus reinforcing that the legislature truly intended IDOJJ commitment to be a disposition of last resort, ordered only when it is the least restrictive available alternative. See, *e.g.*, Arielle W. Tolman, *Harm Instead of Healing: Imprisoning Youth with Mental Illness*, Children and Family Justice Center, Community Safety & The Future of Illinois' Youth Prisons Vol. 5 (March 2020) (detailing how IDOJJ commitment specifically is incredibly ill-suited for children with mental illness); Patrick McCarthy, Vincent Schiraldi, & Miriam Shark, *The Future of Youth Justice: A Community-Based Alternative to the Youth Prison Model*, New Thinking in Community Corrections (Oct. 2016) ("Youth

prisons contravene everything we know about adolescent development in general, and especially the population of youth who come into contact with the system. Instead of helping kids get back on track, these facilities exacerbate many of the factors that brought them to the attention of the courts in the first place.”); Barry Holman & Jason Ziedenberg, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities*, Justice Policy Institute (2006) (stating that juvenile detention has a profoundly negative impact on mental and physical well-being, education, employment, and recidivism); Ian Lambie & Isabel Randell, *The impact of incarceration on juvenile offenders*, 33 *Clinical Psychology Rev.* 448, 449–59 (2013) (stating that juvenile incarceration can greatly limit rehabilitation and contribute to recidivism, while leaving mental health and educational needs unaddressed); Richard A. Mendel, *No Place for Kids, The Case for Reducing Juvenile Incarceration*, The Annie E. Casey Foundation (2011) (stating that juvenile incarceration dampens future prospects of troubled children, has led to high rates of recidivism, and is counterproductive apart from incarcerating the small number of children who pose a serious threat to the public and must be confined).

Indeed, even the Office of the Independent Juvenile Ombudsperson for the IDOJJ has recognized that IDOJJ policies and practices are “too closely aligned with the Department of Corrections” and, furthermore, “[p]unitive measures such as extended custody do little to change behavior and increase the odds that youth will return to [IDOJJ] custody or wind up in DOC.” Office of the Independent Juvenile Ombudsperson, Illinois Department of Juvenile Justice, “*How are the Children?*”, Annual Report State Fiscal Year 2018, at 37. The John Howard

Association, which has monitored the IDOJJ's facilities, recognizes that confinement has a destructive impact on adolescent health. John Howard Association, *Monitoring Report on IYC–St. Charles* (2015), at 9–10. See also Juvenile Justice Initiative, *Detention of Juveniles In Illinois* (May 4, 2018), at 7–8, 24 (stating that juvenile detention is harmful, costly, and increases the likelihood a child will recidivate).

Confinement can be especially ill-suited for children with mental illness, such as J.M.A. (C57, 117–18; R53), “because experts recognize that youth with mental-health conditions typically ‘get worse’ in prison and jails, not better.” Arielle W. Tolman, *Harm Instead of Healing: Imprisoning Youth with Mental Illness*, Children and Family Justice Center, Community Safety & The Future of Illinois’ Youth Prisons Vol. 5 (March 2020), at 2 (citing Illinois Mental Health Opportunities For Youth Diversion Task Force, *Stemming the Tide: Diverting Youth with Mental Conditions from the Illinois Justice System* (2018), at 8; Development Services Group, Inc., *Intersection Between Mental Health and the Juvenile Justice System: Literature Review*, Office of Juvenile Justice and Delinquency Prevention (2017), <http://www.ojjdp.gov/mpg/litreviews/Intersection-Mental-Health-Juvenile-Justice.pdf>, at 4–5). Indeed, the IDOJJ “has struggled over its history to meet the needs of youth with mental illness in its care.” *Id.* And “social science literature on best practices for justice-involved adolescents with mental illness explains that no amount of improvement of the mental health services within current Illinois youth prisons will be sufficient because the large-scale adult-prison model negatively impacts youth with mental illness.” *Id.*

Accordingly, our legislature has definitively instructed circuit courts about the limited circumstance when IDOJJ commitment can be imposed: when it is the least restrictive alternative. If IDOJJ commitment is not the least restrictive alternative (*i.e.*, if a child has the potential to be rehabilitated through a sentence less restrictive than IDOJJ commitment), then IDOJJ commitment cannot be imposed. And that is because our legislature, scholars, and even the IDOJJ itself recognize that juvenile incarceration is not well-suited for rehabilitation and can be harmful to children.

Requiring the circuit court to expressly find that IDOJJ commitment is the least restrictive alternative is a necessary step to ensure that no child will be sentenced to the IDOJJ when a less restrictive alternative is available. An express finding ensures that a child is sentenced to the IDOJJ in the limited circumstance that *the legislature* intended, not merely when a circuit judge thinks it is the “most appropriate,” “most reasonable,” or “necessary” sentence. See generally *In re S.G.*, 175 Ill. 2d at 490 (“The initial responsibility for setting public policy relating to the care and custody of minors rests with the legislative branch of government.”). An express finding achieves the legislature’s goal of correction and rehabilitation of children rather than streamlining them to a place that can thwart rehabilitation and do harm. And it promotes the use of less restrictive community-based services, as the legislature intended, by ensuring that circuit courts are actually treating IDOJJ commitment as a last resort.

If an express finding is not required, then it will promote the incarceration of children when less restrictive alternatives are available. It will subject children to an environment that has been known to increase the likelihood of future

delinquent and criminal conduct. In other words, it will further the “pipeline” that the legislature intended to avoid.

Finally, the requirement of an express finding saves reviewing courts from the need to divine the meaning behind a circuit court’s connotations and insinuations at sentencing. If the circuit court does not make an express finding, then parties and reviewing courts will be left to determine whether the court’s statements at sentencing equate to a least-restrictive-alternative finding. It will promote needless litigation and burden the court system. These unnecessary delays will, in turn, undermine the rehabilitation of children in the juvenile court system—the very core of what the Act is trying to accomplish. Substantial delays in juvenile proceedings can induce anxiety and fear. *Juvenile Delinquency Guidelines: Improving Court Practice in Juvenile Delinquency Cases*, National Council of Juvenile and Family Court Judges, Chap. VIII at 159–60 (2005), <https://www.ncjfcj.org/wp-content/uploads/2019/10/Juvenile-Delinquency-Guidelines.pdf> (last visited April 28, 2020). They can also damage a child’s cognitive development, sense of security, perception of the fairness of the justice system, and ability to trust. *Id.*

Therefore, this Court should hold that the Act requires circuit courts to expressly find that IDOJJ commitment is the least restrictive alternative before committing a child to the IDOJJ. The plain language of the Act requires it. And it will further the legislature’s intent, accomplish the Act’s purpose, and promote judicial economy.

3. The circuit court did not make an express finding.

In the instant case, the circuit court did not expressly find that IDOJJ

commitment was the least restrictive alternative. The State conceded this in the appellate court. *In re J.M.A.*, 2019 IL App (3d) 190346, ¶ 24. And both the majority and the dissenting justice in the appellate court acknowledged that the circuit court did not explicitly find that IDOJJ commitment was the least restrictive alternative. *Id.*, ¶¶ 27, 62.

It is noteworthy that the circuit court's commitment order does state that the court was finding that commitment to the IDOJJ was the least restrictive alternative (C130). However, the order must be considered in context. It is a preprinted *pro forma* order. The "least restrictive" language is preprinted on the form. The circuit court did not write the language on the form for this case (C130–32). Moreover, there is not a box next to the "least restrictive" language for the court to check off. And there are no handwritten markings on the form near the language to indicate that the circuit court made the "least restrictive" finding (C130). Every time a circuit court issues a commitment order using this form, the "least restrictive" language will appear on it, regardless of whether the court actually found that commitment to the IDOJJ was the least-restrictive alternative. Thus, the *pro forma* order does not illustrate that the circuit court actually found IDOJJ commitment to be the least-restrictive alternative in this case. See generally *In re Raheem M.*, 2013 IL App (4th) 130585, ¶ 50 (stating that the mandates of section 5-750 are "not some *pro forma* statement[s] to be satisfied by including the language of the statute in a form sentencing order.").

Therefore, this Court should conclude that the circuit court violated the Juvenile Court Act by sentencing J.M.A. to the IDOJJ without expressly finding that IDOJJ commitment was the least restrictive alternative.

4. It cannot be inferred from the record that the circuit court found that IDOJJ commitment was the least restrictive alternative.

Even if this Court were to hold that the Act does not require an express finding, it cannot be reasonably inferred from the record that the circuit court in this case found that IDOJJ commitment was the least restrictive alternative.

In its opinion, the appellate court majority concluded that it was “clear from the [circuit] court’s commentary that it found sentencing [J.M.A.] to the IDOJJ to be the least restrictive alternative it could reasonably impose.” *In re J.M.A.*, 2019 IL App (3d) 190346, ¶ 26. The basis for the majority’s conclusion was the fact that the circuit court “explicitly contemplated a number of less restrictive options” and dismissed them as possibilities. *Id.* at ¶¶ 25–26.

When the circuit court sentenced J.M.A., it did not discuss any specific less restrictive alternatives on the record (R70–76). It was not until the hearing on J.M.A.’s motion to reconsider sentence that the court did so (R122–24). The court considered and rejected three less restrictive alternatives to IDOJJ commitment: probation¹; home detention with ankle-bracelet monitoring; and placement in a detention home, such as Mary Davis. The court opined that probation and home detention with monitoring had not worked for J.M.A. in the past. And although placement in a detention home “could be in order,” the time period would not be long enough (R122–24).

¹ The social history report illustrates that as part of probation, J.M.A. was ordered to complete random drug and alcohol testing, community service, and unspecified “School Based Services” and “Day Treatment Programming” (C52–57). A social history addendum provided that while on probation, J.M.A. participated in the Rock Island Safer Foundation Impact Program. He participated in aggression-replacement training groups, life-skills groups, physical-activity projects, and community service (C126–27).

Significantly, however, there were other less restrictive alternatives to IDOJJ commitment that the circuit court did not consider on the record. Section 5-710 of the Act addresses the various types of sentencing orders that may be entered with respect to wards of the court. See 705 ILCS 405/5-710(1)(a)(i)–(x) (2018).

For example, the court could have sentenced J.M.A. to another period of probation with conditions *that had not previously been ordered for J.M.A.*, such as the following: residence in a “facility established for the instruction or residence of persons on probation”; “medical or psychiatric treatment” by a psychiatrist; psychological treatment by a clinical psychologist; or services by a clinical social worker. 705 ILCS 405/5-710(1)(a)(i) (2018); 705 ILCS 405/5-715(2)(d)–(e) (2018).

The court could have placed J.M.A. in accordance with section 5-740 of the Act, with or without being placed on probation or conditional discharge. 705 ILCS 405/5-710(1)(a)(ii) (2018). Such placement is permitted when, *inter alia*, the court finds that the child’s parents, guardian, or legal custodian are unable, unfit, or unwilling to care for, protect, train, or discipline the child, as the court found with J.M.A.’s mother (R70). 705 ILCS 405/5-740(1) (2018). Placements under section 5-740 may be made in any of the following ways: in the custody of a suitable relative or other person; under the guardianship of a probation officer; commitment to an agency for care or placement (other than the IDOJJ and the Department of Children and Family Services (DCFS)); commitment to a licensed training school or industrial school; or commitment to an institution having among

its purposes the care of delinquent children (other than the IDOJJ and the DCFS). 705 ILCS 405/5-740(1)(a)–(e) (2018).

The court also could have placed J.M.A. on detention under section 3-6039 of the Counties Code. 705 ILCS 405/5-710(1)(a)(viii) (2018). The period may not exceed the period of incarceration that the law allows for adults found guilty of the same offense for which the minor was adjudicated delinquent, and in any event no longer than the minor’s attainment of age 21. *Id.* Placement on detention under section 3-6039 of the Counties Code constitutes placement in a county juvenile impact incarceration program. See 55 ILCS 5/3-6039 (2018). Eligibility for the program has certain requirements. See 55 ILCS 5/3-6039(b)(1)–(6) (2018). Pursuant to statute, the program includes “mandatory physical training and labor, military formation and drills, regimented activities, uniformity of dress and appearance, education and counseling, including drug counseling if appropriate, and must impart to the delinquent minor principles of honor, integrity, self-sufficiency, self-discipline, self-respect, and respect for others.” 55 ILCS 5/3-6039(c) (2018).

The circuit court’s consideration of three alternatives to IDOJJ commitment may have been sufficient to establish the requirement that the court consider evidence of reasonable efforts to locate less restrictive alternatives. See 705 ILCS 405/5-750(1) (2018) (requiring evidence that efforts were made to locate less restrictive alternatives to secure confinement); *In re Justin F.*, 2016 IL App (1st) 153257, ¶ 26 (holding that the court adequately inquired into less restrictive alternatives where the court considered and ruled out probation and intensive probation on the record). But the requirement of a *consideration* of less restrictive

alternatives is not the same as the requirement of a *finding* that IDOJJ commitment is the least restrictive alternative. *In re H.L.*, 2016 IL App (2d) 140486-B, ¶¶ 48–50; *In re Henry P.*, 2014 IL App (1st) 130241, ¶ 60. The appellate court in this case conflated the two.

Logically, for a court to conclude that IDOJJ commitment is the least restrictive alternative, it must first consider and rule out every other alternative that is less restrictive than IDOJJ commitment. Of course, doing so orally on the record, one by one, would be tedious, which is exactly why the legislature sought to simplify things by requiring an express finding that IDOJJ commitment is the least restrictive alternative. However, in the absence of an express finding, the only way for a court to articulate on the record that it found IDOJJ commitment to be the least restrictive alternative is to individually rule out every other alternative on the record. The circuit court certainly did not do so here.

Although the circuit court said that sentencing J.M.A. to the IDOJJ was “the most appropriate sentence” and “necessary,” that does not necessarily mean that it found IDOJJ commitment to be the least restrictive alternative available for J.M.A. (R72, 125). A court could consider IDOJJ commitment to be the most appropriate and necessary sentence even when a less restrictive alternative is available. Thus, the circuit court’s statements at sentencing and on reconsideration do not support a reasonable inference that it found IDOJJ commitment to be the least restrictive alternative. Consequently, the record does not support the conclusion that the circuit court actually made such a finding.

Accordingly, J.M.A. respectfully requests that this Court vacate his sentence and remand for resentencing because the circuit court violated the Act by

committing him to the IDOJJ without finding, either expressly as the Act requires or otherwise, that IDOJJ commitment was the least restrictive alternative.

B. The circuit court violated the Juvenile Court Act by committing J.M.A. to the IDOJJ without first reviewing services within the IDOJJ that will meet J.M.A.’s individualized needs.

Aside from the circuit court’s failure to find that IDOJJ commitment was the least restrictive alternative, the circuit court violated the Act in a second distinct way: it failed to review services within the IDOJJ that will meet J.M.A.’s individualized needs.

Section 5-750(1)(b) provides that before the circuit court commits a child to the IDOJJ, “it shall make a finding that secure confinement is necessary, following a review of [several] individualized factors,” which are itemized in section 5-750(1)(b). 705 ILCS 405/5-750(1)(b)(A)–(G) (2018). One of the factors is “[s]ervices within the Department of Juvenile Justice that will meet the individualized needs of the minor.” 705 ILCS 405/5-750(1)(b)(G) (2018).

The noun “review” means: “Consideration, inspection, or reexamination of a subject or thing.” Black’s Law Dictionary (11th ed. 2019); see also generally *Perry*, 224 Ill. 2d at 330 (“In determining the plain meaning of a statutory term, it is entirely appropriate to look to the dictionary for a definition.”). Thus, the Act requires a circuit court to consider, inspect, or reexamine IDOJJ services that will meet the child’s individualized needs before committing the child to the IDOJJ.

Logically, a court cannot review IDOJJ services when the court has no evidence before it of the particular services the IDOJJ offers. And without evidence of the particular services offered, the court cannot consider whether IDOJJ services

will meet a specific child's individualized needs. See generally *In re Justin F.*, 2016 IL App (1st) 153257, ¶¶ 30–31 (requiring evidence of services offered by the IDOJJ that will meet the individualized needs of the child).

In the instant case, the circuit court stated at sentencing that it was finding that services within the IDOJJ would meet J.M.A.'s individualized needs (R73).² And on reconsideration, the court stated that J.M.A. needed to be “rehabilitated from his bad behavior issues” and then noted, “I think they do have the services to try to do that” (R124-25). This was the extent of the circuit court's “review” of services within the IDOJJ. It strains credulity and common sense to construe these brief comments as a “review” of IDOJJ services, let alone services that will meet J.M.A.'s individualized needs. The comments do not illustrate that the court considered, inspected, or reexamined the particular services that IDOJJ offered. Further, stating that the IDOJJ has services for bad behavior is a very generalized statement. If such statements were legally sufficient to satisfy the individualized need requirement of section 5-750(1)(b)(G), it would render the statutory requirement meaningless. The legislature's intent to “provide an individualized assessment” of every child for the purpose of rehabilitation and

² The court's *pro forma* sentencing order contained preprinted language providing that the court found secure confinement was necessary after a review of, *inter alia*, “[s]ervices within the Department of Justice that will meet the individualized needs of the minor” (C130). As with the “least restrictive” language in the *pro forma* order, the court did not write the language pertaining to IDOJJ services on the form for this case. There is not a box next to the IDOJJ services language for the court to check off. And there are no handwritten markings on the form near the language to indicate that the circuit court actually reviewed IDOJJ services that would meet J.M.A.'s individualized needs (C130).

competency development would be thwarted. 705 ILCS 405/5-101(1)(c) (2018).

To be sure, the circuit court did not receive any evidence of specific services that the IDOJJ offered. Without evidence of the particular services offered, the court could not review IDOJJ services that will meet J.M.A.'s individualized needs. Although the juvenile intake officer stated in the social history report that J.M.A. could receive "services to address poor decision making" while in the IDOJJ, the social history report did not actually identify or discuss any particular services offered by the IDOJJ (C64).

Tellingly, when the prosecutor responded to J.M.A.'s argument on reconsideration that there was no evidence presented about what services existed at the IDOJJ, the prosecutor did not point to the social history report or anywhere else in the record as a response—because there was no evidence in the record to point to. Instead, the prosecutor told the circuit court that the IDOJJ had annual reports listing the programs offered at the various IDOJJ facilities. The prosecutor told the court that the court had access to the reports and that the court was aware of the services that were available. In other words, the prosecutor assumed the court knew what they were. The prosecutor did not present the annual reports to the court for review. The court did not take judicial notice of them. And the court did not state that it was aware of the reports or of the specific services offered (C168; R122).

Even more significantly, there was one glaring individualized need that J.M.A. had that both the circuit court and the juvenile intake officer inexplicably failed to consider whether IDOJJ services would meet: treatment for his behavioral mental-health disorders. The record is replete with evidence that since the age

of three, J.M.A. has had behavioral mental-health issues that have not been consistently treated (C57, 61–62, 117–18; R53). And both J.M.A.'s mother and doctors have linked his poor behavior to his behavioral mental-health disorders and a lack of follow through with proper treatment (C55, 57, 61, 117–18).

More specifically, at three years old, J.M.A. was hyperactive, aggressive, defiant, and impulsive. He exhibited risky behavior and poor judgment (C117). He was diagnosed with oppositional defiant disorder (ODD) (C117).³ J.M.A. was to follow up for therapy but he and his mother failed to appear twice (C118). They missed multiple mental-health evaluations in 2007 and 2008 (C118). At age six, J.M.A. was diagnosed with attention deficit hyperactivity disorder (ADHD).⁴ His mother was frustrated that he had not been prescribed medication. When the Vera French Mental Health Center tried to give the mother an appointment, she refused and left the office (C117). J.M.A.'s mother continued

³ ODD is a mental-health disorder characterized by the following emotional and behavioral symptoms, lasting at least six months: angry and irritable mood, argumentative and defiant behavior, and vindictiveness. ODD generally develops during preschool years and sometimes later, before early teen years. Many children and teenagers with ODD also have other mental-health disorders, such as ADHD, conduct disorder, depression, anxiety, and learning and communication disorders. Mayo Clinic, *Oppositional defiant disorder (ODD)*, <https://www.mayoclinic.org/diseases-conditions/oppositional-defiant-disorder/symptoms-causes/syc-20375831> (last accessed April 3, 2020).

⁴ ADHD is a mental-health disorder characterized by a combination of persistent problems, including difficulty paying attention, hyperactivity, impulsive behavior, low frustration tolerance, trouble coping with stress, frequent mood swings, and hot temper. Symptoms start in early childhood. Mayo Clinic, *Adult attention-deficit/hyperactivity disorder (ADHD)*, <https://www.mayoclinic.org/diseases-conditions/adult-adhd/symptoms-causes/syc-20350878> (last accessed April 3, 2020).

the pattern of not bringing J.M.A. to his necessary treatment when he was six years old, missing two appointments. They eventually arrived late to an appointment at Vera French on December 1, 2009. During the appointment, it was recommended that J.M.A. take Focalin XR to address his ADHD. It was also recommended that he undergo individual therapy (C117). Vera French personnel saw J.M.A. again in January 2010. He showed “severe behavior issues that had not been addressed due to lack of follow through by the mother” (C118). Vera French personnel recommended that J.M.A. continue the medication and obtain intensive, consistent in-home services (C118).

Vera French personnel next saw J.M.A. three years later, on March 26, 2013. His mother reported that they had just returned after moving to Minnesota, where J.M.A. “was not seen by anybody” (C118). Vera French personnel recommended in-home services and that he resume Focalin XR (C118). They saw J.M.A. again in April 2013, noting “non-compliance with medications” (C118). It was recommended that J.M.A. continue Focalin XR and that he return in two to three weeks. Yet, in April 2014, Vera French personnel closed J.M.A.’s outpatient-services case for the following reason: “unable to make contact with patient—lack of follow through with treatment” (C118). According to J.M.A.’s mother, she and J.M.A. missed mental-health appointments due to multiple moves around the country, financial issues, and J.M.A.’s legal troubles (R53–55).

J.M.A. received a diagnostic mental-health assessment at the Robert Young Mental Health Center on July 9, 2018. His mother reported that when he was not on his medication, “it just seemed like everything would go wrong” (C57). His current medications were noted as Focalin XR and Mirtazapine. It was

recommended that J.M.A. “engage in psychiatry services in order to stabilize and manage his mental health symptoms” (C57). It was noted that without the recommended psychiatry services, it was likely that J.M.A. would require a “higher level of care” (C57). Both J.M.A. and his mother reported that J.M.A. had bipolar disorder (C61; R53). Furthermore, his mother noted that J.M.A.’s academic skills were “kind of low” because he was unable to comprehend “the way a child his age is supposed to comprehend. It takes him a little bit longer to understand anything” (R52–53).

Given the extensive evidence of J.M.A.’s behavioral mental-health disorders, the circuit court’s failure to address whether the IDOJJ had services to meet J.M.A.’s mental-health needs further supports the conclusion that the court did not review services within the IDOJJ that will meet J.M.A.’s individualized needs.

To be sure, ADHD and ODD, when not properly treated, increase the risk for substance abuse and delinquency. American Academy of Child & Adolescent Psychiatry, *ODD: A Guide for Families*, 2009, at 1; see also Margaret H. Sibley, et al., *The Delinquency Outcomes of Boys with ADHD with and without Comorbidity*, 39 *Journal of Abnormal Child Psychology* 21, 21–30 (2011) (discussing the increasing likelihood of delinquency for children and adolescents with ADHD, ADHD plus ODD, and ADHD plus conduct disorder); Sheila E. Crowell, et al., *Autonomic Correlates of Attention-Deficit/Hyperactivity Disorder and Oppositional Defiant Disorder in Preschool Children*, 115 *Journal of Abnormal Psychology* 174, 174 (2006) (“Preschool symptoms of [ADHD] and [ODD] mark significant risk for more serious externalizing behaviors in middle childhood, including early onset conduct disorder (CD), delinquency, and

aggression In turn, children with early onset CD and ADHD are at risk for persistent criminality and antisocial behavior in adulthood”); Mayo Clinic, *Oppositional defiant disorder (ODD)*, <https://www.mayoclinic.org/diseases-conditions/oppositional-defiant-disorder/symptoms-causes/syc-20375831> (last accessed April 3, 2020) (stating that ODD may lead to antisocial behavior, substance-abuse disorder, poor school and work performance, impulse-control problems, and suicide); Mayo Clinic, *Adult attention-deficit/hyperactivity disorder (ADHD)*, <https://www.mayoclinic.org/diseases-conditions/adult-adhd/symptoms-causes/syc-20350878> (last accessed April 3, 2020) (stating that ADHD has been linked to trouble with the law, substance abuse, poor school or work performance, unemployment, financial problems, unstable relationships, and suicide). Between 50% to 70% of juvenile offenders have a diagnosable behavioral health disorder. Carol A. Schubert & Edward P. Mulvey, *Behavioral Health Problems, Treatment, and Outcomes in Serious Youthful Offenders*, *Juvenile Justice Bulletin*, United States Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, June 2014, at 3.

If juvenile courts are truly going to act as a *parens patriae* to children with behavioral mental-health disorders, then they need to acknowledge that such disorders cause bad behavior—often leading to delinquency when not sufficiently treated—and prioritize mental-health services as a significant part of rehabilitation and competency development. Only then will children with behavioral mental-health disorders be treated appropriately at an early stage of their lives, rehabilitated, and developed into competent and productive members of society, as the legislature intended the juvenile justice system to do under

the Act. 705 ILCS 405/5-101(1)(c) (2018); 705 ILCS 405/5-140(a)–(b) (2018); 90 th Ill. Gen. Assem., Senate Proceedings, Jan. 29, 1998, at 39–40.

The circuit court in this case overlooked J.M.A.’s mental-health issues and, instead, categorized him as a child with bad behavior due to poor decision making (R115–16). The court failed to recognize the underlying problem that induces J.M.A. to engage in poor decision making and bad behavior: his *behavioral* mental-health disorders. By doing so, the court neglected a crucial step in J.M.A.’s potential for rehabilitation and a successful future: the need for an environment where his mental-health needs will be consistently addressed and where he can learn of their influence on his life until he is old and mature enough to consistently manage them himself. The court violated section 5-750(1)(b)(G) of the Act—and failed J.M.A.—when it did not prioritize his need for mental-health treatment so that he could go forward, for the first time in his life, without untreated or undertreated behavioral mental-health disorders pushing him toward criminal activity.

Accordingly, J.M.A. respectfully requests that this Court vacate his sentence and remand for resentencing because the circuit court failed to review services within the IDOJJ that will meet his individualized needs.

CONCLUSION

J.M.A. respectfully requests that this Court reverse the appellate court's judgment, vacate his sentence, and remand for resentencing because the circuit court violated the Juvenile Court Act by committing him to the IDOJJ (A) without finding, either expressly as required by the Act or otherwise, that IDOJJ commitment was the least restrictive alternative and (B) without reviewing services within the IDOJJ that will meet his individualized needs, especially his need for mental-health treatment.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342, is 39 pages.

/s/Dimitri Golfis
DIMITRI GOLFIS
Assistant Appellate Defender

APPENDIX TO THE BRIEF

In re J.M.A. No. 125680

Appellate Court Decision A-1
Notice of Appeal A-24
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2019 IL App (3d) 190346

Opinion filed December 31, 2019

IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT

2019

In re J.M.A.,)	Appeal from the Circuit Court
)	of the 14th Judicial Circuit,
a Minor)	Rock Island County, Illinois.
)	
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,)	Appeal No. 3-19-0346
)	Circuit No. 18-JD-113
v.)	
)	
J.M.A.,)	Honorable Theodore G. Kutsunis,
)	Judge, Presiding.
Respondent-Appellant).)	

PRESIDING JUSTICE SCHMIDT delivered the judgment of the court, with opinion.
Justice Carter concurred in the judgment and opinion.
Justice McDade dissented, with opinion.

OPINION

¶ 1 Respondent, J.M.A., pled guilty to a number of felony offenses and was adjudicated delinquent. The circuit court subsequently sentenced him to a term in the Illinois Department of Juvenile Justice (IDOJJ). On appeal, respondent challenges only his sentencing. First, respondent contends the trial court failed to make an express finding that commitment to the IDOJJ was the least restrictive sentencing alternative. Next, respondent contends that even if the court did make the required finding, that finding was improper in that it was unsupported by any evidence of

efforts to find less restrictive alternatives or any explanation of why such efforts were unsuccessful. Third, respondent argues that no evidence was introduced tending to show that services available through the IDOJJ could meet respondent's individualized needs. Finally, respondent also argues that the court erred in ordering certain restitution. We affirm.

¶ 2

I. BACKGROUND

¶ 3

The State filed a petition of delinquency on August 15, 2018, that alleged respondent had violated the Juvenile Court Act of 1987 (Act) (705 ILCS 405/1-1 et seq. (West 2018)). Specifically, the petition alleged that respondent committed the offense of unlawful possession of a stolen vehicle (625 ILCS 5/4-103(a)(1) (West 2018)) in that he knowingly possessed a motor vehicle belonging to Serina Natalino while knowing said vehicle to be stolen.

¶ 4

On August 22, 2018, the State amended the delinquency petition to add eight additional counts. Count II of the amended petition charged respondent with theft (720 ILCS 5/16-1(a)(4) (West 2018)), alleging that respondent obtained unauthorized control over an iPad belonging to Kim Rodgers. The petition alleged that the iPad had "a total value in excess of \$500." Count IV charged respondent with unlawful possession of a stolen firearm (vd. § 24-3.8). Count VI charged respondent with a second count of unlawful possession of a stolen vehicle. Count VII charged respondent with a second count of theft, alleging that respondent obtained unauthorized control over an iPhone belonging to Melissa Greenwood.

¶ 5

On September 11, 2018, counsel for respondent informed the court that respondent would be pleading guilty to counts IV, VI, and VII. Pursuant to an agreement with the State, the remaining charges would be dropped. The State clarified: "The other counts are being dismissed at sentencing but used in aggravation and * * * restitution. There's restitution." The court asked

respondent if that was his understanding of the agreement, and he responded affirmatively. The court accepted respondent's plea.

¶ 6 A social history report was filed on October 5, 2018. The report detailed respondent's criminal record, which included multiple incidents of theft or attempted burglary. Respondent had twice been placed on juvenile probation in Iowa. The latter of those terms of probation included requirements for tracking and monitoring. The report also listed respondent's frequent police contacts, all of which occurred in 2017 or 2018. Those contacts also included multiple occasions in which respondent had run away from home. In 2017, respondent was placed in the custody of his mother in an "Enhanced in Home Detention Program," which included ankle bracelet monitoring. The report indicated that respondent "physically removed the monitoring device *** from his person and absconded."

¶ 7 Regarding respondent's mental health, the social history report indicated respondent had been diagnosed with attention deficit hyperactivity disorder (ADHD) and oppositional defiant disorder. Respondent was currently prescribed Focalin and mirtazapine. His mother opined that when respondent "is not on his meds it just seemed like everything would go wrong." After receiving a mental health assessment in July 2018, it was recommended that respondent "engage in psychiatry services in order to stabilize and manage his mental health symptoms." Respondent and his mother reported that respondent had bipolar disorder, though the report indicated that no documentation had been provided in support of that claim. No issues with alcohol or substance abuse were reported.

¶ 8 The social history report recommended an indeterminate sentence in the IDOJJ. The report stated: "The minor can receive services to address poor decision making skills in a highly structured and confined setting."

¶ 9 The circuit court held a sentencing hearing on November 2, 2018. The State presented no evidence in aggravation other than the social history report. Respondent's mother, R.A., testified that he had been diagnosed with bipolar disorder, oppositional defiant disorder, and ADHD. She testified that she and respondent had frequently missed respondent's mental health appointments because of financial issues. R.A. was not currently employed. If respondent was released into her custody, she would see to it that he attended psychiatric evaluations with Dr. Robert Young—appointments that she believed would be covered by her insurance plan. She would also keep respondent confined in a manner that the probation department saw fit and would ensure that respondent took his medication. R.A. also detailed the steps she had taken to remove negative influences from respondent's life, including moving so that respondent would not be around the other juveniles with whom he frequently found trouble. R.A. believed that families she had met in the new area would be positive influences on respondent. She had a job set up for respondent at Chick-fil-A.

¶ 10 The circuit court determined that respondent should be made a ward of the court. In imposing sentence, the court began by recounting respondent's lengthy criminal history. The court concluded:

“I've reviewed the social history and the—and the addendums. I've looked at the alternatives that could be imposed, and I'm finding the commitment to the [IDJ] is necessary to ensure the protection of the public from the consequences of criminal activity of the delinquent. I'm finding that reasonable efforts have been made to prevent or eliminate the need for the minor to be removed from the home. I'm finding that secure confinement is necessary after I reviewed the following factors: The age of the minor; the criminal background of

the minor; the review of any results and assessments of the minor; the educational background of the minor including whether he was ever assessed for a learning disability, and, if so, what services were provided as well as any disciplinary incidents at school; the physical, mental, and emotional health of the minor indicating whether the minor has ever been diagnosed with a health issue, and, if so, what services were provided and whether the minor was compliant with the services; community services that have been provided to the minor and whether he was compliant with those services and whether they were successful.

I'm finding that the services within the [IDOJJ] will meet the individualized needs of the minor.”

¶ 11 The court sentenced respondent to an indeterminate term of up to seven years in the IDOJJ, or until respondent's twenty-first birthday. The court also ordered restitution be paid to Natalino and Greenwood in the amounts of \$853 and \$2003.25, respectively. With respect to restitution to Rodgers, the State requested “that the iPad be returned to minimize any sort or restitution that would be sought. We're not asking for any at this time, but if she gets the iPad back sooner, *** that's less that she'd be asking for.”

¶ 12 The court subsequently filed a written order reflecting the sentence. The written order is a preprinted form with certain boxes checked and certain blank lines filled in by hand. The preprinted title of the form is “Order of Commitment to the [IDOJJ].” Item No. 4 on the form, located under the heading “The Court Finds:” is the following preprinted paragraph:

“Commitment to the [IDOJJ] is the least restrictive alternative based on evidence that efforts were made to locate less restrictive alternatives to secure confinement and those efforts were unsuccessful because:”

Following the colon are three page-width, blank lines. On the form filled out in this case, those lines have been left blank. In the restitution section of the sentencing order, in addition to setting out the monetary sums for Natalino and Greenwood, the court wrote: “Reserved for Kim Rodgers.”

¶ 13 Respondent filed a motion to reconsider sentence in which he argued that no evidence had been introduced showing reasonable efforts that had been taken to prevent respondent’s removal from the home or that efforts toward less restrictive confinement had been made. He also asserted that no evidence had been introduced showing that commitment to the IDOJJ would meet respondent’s individualized needs.

¶ 14 A hearing on respondent’s motion was held on January 24, 2019. The State argued that the circuit court was free to take judicial notice of the various services provided by the IDOJJ, adding: “Through Your Honor’s tenure on the bench *** there are things that are regularly brought to the Court’s attention as to the services that are available *** and the Court does take notice and the court did take notice of the services that are available in the [IDOJJ] ***.”

¶ 15 In denying the motion to reconsider, the court stated:

“The minor is asking the Court to basically not sentence to the [IDOJJ] because the least restrictive services were not attempted. Are we saying just on this specific case or can I look at the whole history of this minor or short history? He’s been on probation in two states—or out of the state of Iowa. Did not work. He was unsuccessfully discharged. And while on probation, he was committed or at least implicated in other crimes. Twice he was put on home detention with an ankle bracelet and twice he removed the ankle bracelet and fled and ran away, possibly committing other crimes.

The mother reported him missing several times, saying she couldn't control him, that he wouldn't listen to her, and now because of the fact that she quit her job, if I'm understanding what's in the motion correctly, she would be able to commit her full time to the son—to her son. I don't know. There's no history of that that I can see from the social history, that she's been ever able to do that or ever has done that successfully.

* * *

The family is dysfunctional. I believe they have attempted these least strenuous or severe sentences to try to rehabilitate him, you know, for the protection of the public, even though a sentence to a secure facility like Mary Davis could be in order. The time periods that he would have to be there I don't think is long enough for him to address the issues that he really needs to address. He needs a structured environment. Structured environment is provided by the [IDOJJ]. He needs to be rehabilitated from his bad behavior issues. He needs to improve in his decisionmaking. And I think *** for the protection of the public and in some instances for him, because of the type of behavior he's engaging in, I think it is the most reasonable sentence that this court could impose under all the circumstances ***.”

¶ 16 On appeal, this court remanded the matter for proceedings in strict compliance with Illinois Supreme Court Rule 604(d) (eff. July 1, 2017). *In re J.M.A.*, No. 3-19-0058 (2019) (unpublished dispositional order).

¶ 17 On June 14, 2019, counsel filed the same motion to reconsider, as well as a certificate under Rule 604(d). At the ensuing hearing, the court noted that respondent was raising the same

arguments as at the previous hearing. The State argued that the IDOJJ files annual reports listing in great detail its facilities and the programs available in each facility. The State argued that those reports are publicly available and that “[t]he Court has access to it [sic]” and “is aware of” the IDOJJ’s services.

¶ 18 The court again denied the motion to reconsider. It appears that in doing so, the court simply read the transcript of its comments from January 24, 2019. The record reflects that the comments are nearly identical with those made earlier, with the word “again” occasionally added. After again commenting that respondent needed a structured environment, the court stated: “He needs to be rehabilitated from his bad behavior issues, and I think they do have the services to try to do that.”

¶ 19 II. ANALYSIS

¶ 20 On appeal, respondent argues that the sentence imposed by the circuit court failed to comply with the requirements of the Act in multiple distinct ways. First, he argues that the court failed to make an express finding that commitment to the IDOJJ was the least restrictive sentencing alternative. Second, respondent argues that even if the court did make the required finding, it was improper because “[t]here was not evidence of efforts to locate less restrictive alternatives to secure confinement in IDOJJ and the court did not explain why such efforts were unsuccessful.” Third, respondent argues that no evidence was before the court concerning the availability of services within IDOJJ that would meet respondent’s individualized needs. Finally, unrelated to the Act, respondent argues that the court’s restitution order was erroneous on multiple grounds.

¶ 21 Section 5-750 of the Act sets forth the requirements attendant to the commitment of a minor to the IDOJJ. It provides that a court may sentence a minor to the IDOJJ “if it finds that

*** (b) commitment to the [IDOJJ] is the least restrictive alternative based on evidence that efforts were made to locate less restrictive alternatives to secure confinement and the reasons why efforts were unsuccessful in locating a less restrictive alternative to secure confinement.” 705 ILCS 405/5-750(1)(b) (West 2018). The same subsection mandates that “[b]efore the court commits a minor to the [IDOJJ], it shall make a finding that secure confinement is necessary, following a review of the following individualized factors.” \d. Seven factors follow, the last of which is “Services within the [IDOJJ] that will meet the individualized needs of the minor.” \d. § 5-750(1)(b)(G).

¶ 22 With these requirements in mind, we address respondent’s arguments.

¶ 23 A. Least Restrictive Alternative Finding

¶ 24 A court may not sentence a minor to the IDOJJ unless it finds that such a commitment is “the least restrictive alternative.” \d. § 5-750(1)(b). The State concedes that the circuit court at sentencing “did not expressly state that commitment to the [IDOJJ] was the least restrictive alternative available to respondent.” However, the State maintains that the court made the required finding in its comments upon denial of respondent’s motion to reconsider sentence. While the State admits that the court never used the actual words contemplated by the Act, it argues that the comments as a whole “clearly show” that the court felt commitment to the IDOJJ would be the least restrictive alternative.

¶ 25 Upon denying the motion to reconsider sentence, the court explicitly contemplated a number of less restrictive options. For example, the court pointed out that respondent had been placed on probation on two prior occasions and had been discharged as unsuccessful each time. Thus, probation was not a viable alternative. Further, the court noted that respondent had been placed on in home detention with ankle bracelet monitoring twice before but had removed his

ankle bracelet and absconded. Thus, such a sentence was clearly not a viable alternative here. The court also expressed skepticism concerning respondent's mother's ability to "control" respondent, citing her failed attempts to do so in the past. Finally, the court observed that while a term in the Mary Davis detention home "could be in order," it dismissed that possibility on the apparent grounds that the time respondent could spend at Mary Davis would not be sufficient to "address the issues that he really needs to address."¹ The court concluded that a term in the IDOJJ was "the most reasonable sentence that [the] court could impose under all the circumstances."

¶ 26 In sum, the circuit court methodically considered the most viable alternatives to a term in the IDOJJ. After considering those less restrictive alternatives, the court dismissed them as possibilities, often because previous attempts to impose those less restrictive alternatives had failed. It is clear from the court's commentary that it found sentencing respondent to the IDOJJ to be the least restrictive alternative it could reasonably impose.

¶ 27 To be sure, the court never explicitly stated: "I find that a commitment to the IDOJJ is the least restrictive alternative." Respondent insists on appeal that such an express finding is mandated by the Act. In support, respondent relies upon the cases of *In re H.L.*, 2016 IL App (2d) 140486-B, and *In re Henry P.*, 2014 IL App (1st) 130241. Each of those cases, however, is distinguishable from the instant matter.

¶ 28 In *H.L.*, 2016 IL App (2d) 140486-B, ¶ 34, the court made no reference to less restrictive alternatives in sentencing the respondent. The State conceded that the court did not expressly make the required finding, and the court rejected its argument that "the trial court sufficiently

¹Placement in a juvenile detention home is limited to "a period not to exceed 30 days." 705 ILCS 405/5-710(1)(a)(v)(West 2018). That limit is extendable only "for a minor under age 15 committed to the Department of Children and Family Services." *Id.* Defendant was 15 years old at the time of sentencing.

talked around the issue such that [the appellate court] can conclude that it implicitly made the finding.” \d. ¶ 50. The reviewing court pointed out that the circuit court, in imposing the sentence, did not even “purport to make a finding that commitment to the [IDOJJ] was the least restrictive alternative.” \d. ¶ 44.

¶ 29 Similarly, in *HENRY P.*, 2014 IL App (1st) 130241, ¶ 40, the circuit court made no reference at sentencing to less restrictive alternatives. The State argued that the reviewing court could “infer from the appellate record that the trial court found that commitment was the least-restrictive alternative.” \d. ¶ 59. The First District rejected that argument, pointing out that whether the record would support such a determination was irrelevant; what mattered was whether the circuit court found commitment to the IDOJJ to be the least restrictive alternative. \d. ¶ 60.

¶ 30 In the present case, the circuit court did not “talk[] around” the issue of less restrictive alternatives. The court’s opinion need not be inferred. We need not resort to the record to determine if such a finding could have been plausible. The circuit court in this case made its intentions clear. It expressly discussed a number of sentencing alternatives, as well as the reasons that those less restrictive alternatives were not viable. The courts in *H.L.* and *HENRY P.* did no such thing.

¶ 31 In so far as either *H.L.* or *HENRY P.* may be read as requiring the explicit recitation of certain words—“I find that a commitment to the IDOJJ is the least restrictive alternative”—we disagree with those rulings. Such a requirement improperly elevates form over substance. The court in this case provided a detailed explanation of less restrictive alternatives and the reasons they were inappropriate for respondent. Not only is this course acceptable under the Act, but we

submit that it is actually preferable to a bare recitation of the “magic words” without any further explanation.

¶ 32 B. Least Restrictive Alternative Evidence

¶ 33 The Act requires that a least-restrictive alternative finding be “based on evidence that efforts were made to locate less restrictive alternatives to secure confinement and the reasons why efforts were unsuccessful in locating a less restrictive alternative to secure confinement.” 705 ILCS 405/5-750(1)(b) (West 2018). Respondent next argues that any finding made by the circuit court was not based on any evidence of efforts to locate less restrictive alternatives and that the court did not explain why such efforts were unsuccessful.

¶ 34 As explained above, the court considered a number of sentencing alternatives less restrictive than commitment to the IDOJJ. Namely, it considered probation, in-home detention with ankle bracelet monitoring, confinement in a secure juvenile facility, and release of respondent to his mother’s custody. Evidence relating to the viability of each of these alternatives was found in the social history report, as well as the testimony of respondent’s mother concerning her ability to provide the proper environment for respondent. The court found that probation and in home detention with monitoring had been demonstrably unsuccessful in the past. Confinement in the Mary Davis home would not provide a term of sufficient length, and past history cast doubt upon the viability of remanding respondent to his mother’s custody. Each of these determinations were properly based on evidence before the court.

¶ 35 Respondent contends, however, that the circuit court only considered evidence relating to a mere fraction of potential sentencing alternatives. He points to section 5-710 of the Act, which enumerates 11 sentencing alternatives aside from commitment to the IDOJJ. *Id.* § 5-710(1). Of these 11 alternatives, respondent identifies some—which he refers to as alternatives of

“intermediate severity”—that the circuit court did not consider. Among these, respondent points to placement in the legal custody of a person besides the parent (. § 5-740(1)), substance abuse treatment, or impact incarceration (55 ILCS 5/3-6039 (West 2018)).

¶ 36 The flaw in respondent’s argument is illustrated by the limited list of alternatives he suggests the court should have considered. For example, the court also failed to discuss emancipation, removal of driving privileges, or tattoo removal when imposing sentence. It appears that no evidence was introduced bearing on the viability of any of those less restrictive alternatives. Of course, even respondent does not argue error was committed there. This is because section 5-750 of the Act should not and cannot be read as requiring the court hear evidence of and consider every possible alternative (and subpart thereof) enumerated in section 5-710.

¶ 37 Indeed, the plain language of section 5-750 requires only that the court hear “evidence that efforts were made to locate less restrictive alternatives *** and the reasons why [such] efforts were unsuccessful.” 705 ILCS 405/5-750(1)(b) (West 2018). The court heard such evidence. While it is true that the court did not receive evidence pertaining to every conceivable sentencing option, the Act did not require that it do so. It is sufficient where, as here, the court takes evidence relating to the most viable or plausible less restrictive alternatives and explains why efforts to employ such alternatives were or would be unsuccessful.

¶ 38 C. Respondent’s Individualized Needs

¶ 39 Section 5-750(1) of the Act mandates that the circuit court, in sentencing a minor to a term of commitment in the IDOJJ, must conduct a review of seven factors. . The seventh of the listed factor is: “Services within the [IDOJJ] that will meet the individualized needs of the minor.” . § 5-750(1)(b)(G). Respondent argues that the court failed to conduct such a review

prior to sentencing him to the IDOJJ. Specifically, respondent contends that the court failed to consider his individualized mental health needs and did not hear any evidence of IDOJJ services that might meet those needs.

¶ 40 The social history report, submitted into evidence at sentencing, indicated that respondent struggled with poor decision-making. The report noted that “[t]he minor can receive services to address poor decision making skills” in the IDOJJ. The court subsequently found that services within IDOJJ would meet respondent’s individualized needs. Thus, the court received evidence that respondent had the individualized need of correcting his poor decision-making. The court received evidence that services that would allow respondent to build those decision-making skills were available in the IDOJJ. The court rationally synthesized that evidence in finding that services within the IDOJJ would address respondent’s individualized needs. The court properly conducted the review mandated by the Act.

¶ 41 Respondent maintains that this review was insufficient on two separate grounds. First, he argues that the juvenile intake officer who authored the social history report was merely expressing his opinion and that his “opinion that IDOJJ has services was not evidence.” This argument is not well taken. The juvenile intake officer is in a far better position than the court itself to speak to respondent’s needs, as well as the services available within the IDOJJ. The officer stated directly in the social history report that the required services were available. This can no more be dismissed as mere opinion rather than evidence than could any trial testimony. While neither the social history report nor the court described the minute details of the services, the Act does not require as much. It is sufficient that the evidence showed such services were available.

¶ 42 Next, respondent maintains that “poor decision making skills” cannot be considered an individualized need because “every minor committed to [the] IDOJJ likely has poor decision-making skills and bad behavior; otherwise, they would not have committed a crime in the first place.” We do not doubt the potential that many minors serving terms in the IDOJJ do, or at some point did, suffer from poor decision-making. That fact, however, does not render poor decision-making any less of a concern for respondent. Consideration of “individualized” needs does not require consideration of needs that are wholly unique to each person.

¶ 43 Respondent also argues that the court failed to consider his mental health needs, and that no evidence was presented concerning the nature or types of services available through the IDOJJ to address those needs.

¶ 44 Defendant’s initial argument was that the court did not conduct the review of his individualized needs and IDOJJ services, as required by statute. We rejected that argument, and concluded that the court did, in fact, conduct the necessary review. Here then, defendant argues that any such review was insufficient in scope or depth. We are unaware of any case in which a reviewing court has reversed a sentence to the IDOJJ on such a basis. Respondent cites none. Indeed, we suspect that a respondent will always be able to identify on appeal some individualized need that went unmentioned at the trial level, no matter how in-depth that court’s discussion.

¶ 45 To be sure, the record makes clear that respondent had been previously diagnosed with oppositional defiant disorder. Though he had seen psychiatrists from time to time, it does not appear that such visits were ever a routine part of his life. Importantly, the social history report did not contain any indication of a nexus between respondent’s mental health issues and the behavior for which he was being sentenced. The circuit court here could have rationally

concluded from the evidence that respondent's primary issue was one with decision-making and that issue merited the most consideration. In any event, this issue is a mere technicality, and the IDOJJ plainly, and perhaps even obviously, offers services for mental health. See Illinois Department of Juvenile Justice, <https://www2.illinois.gov/idjj/Pages/faq.aspx> (last visited Dec. 31, 2019) [perma.cc/A2J3-5NZL].

¶ 46

D. Restitution

¶ 47

In his final argument, respondent contends that the circuit court erred in ordering as restitution payment to Natalino and the return of an iPad to Rodgers, as the charges relating to those victims were dropped by the State. Separately, respondent argues that the court's act of reserving the issue of additional restitution to Rodgers was also error. Defendant concedes that he has not preserved either of these issues but argues that they amount to plain error.

¶ 48

The first step in any plain-error analysis is to determine whether a clear, obvious, or plain error has been committed. *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007). If we find that a clear or obvious error has occurred, it is respondent's burden to demonstrate that the error was prejudicial and thus reversible. See *People v. Thompson*, 238 Ill. 2d 598, 613 (2010). While this showing may be made under the first or second prong of plain error (e.g., *People v. Darr*, 2018 IL App (3d) 150562, ¶¶ 49-50), respondent raises only the second prong here. In the context of sentencing, an error is reversible under the second prong where that error "was so egregious as to deny the defendant a fair sentencing hearing." *People v. Hillier*, 237 Ill. 2d 539, 545 (2010). More generally, the second prong applies where the error committed "was so serious it affected the fairness of the trial and challenged the integrity of the judicial process." *People v. Sebby*, 2017 IL 119445, ¶ 50.

¶ 49 Section 5-710(4) of the Act provides that the circuit court may order a minor “to make restitution, in monetary or non-monetary form, under the terms and conditions of Section 5-5-6 of the Unified Code of Corrections [(Unified Code)].” 705 ILCS 405/5-710(4) (West 2018). In turn, section 5-5-6 of the Unified Code provides:

“ In instances where a defendant has more than one criminal charge pending against him in a single case, or more than one case, and the defendant stands convicted of one or more charges, a plea agreement negotiated by the State’s Attorney and the defendants may require the defendant to make restitution to victims of charges that have been dismissed or which it is contemplated will be dismissed under the terms of the plea agreement, and under the agreement, the court may impose a sentence of restitution on the charge or charges of which the defendant has been convicted that would require the defendant to make restitution to victims of other offenses as provided in the plea agreement.” 730 ILCS 5/5-5-6(d) (West 2018).

¶ 50 Respondent’s counsel first informed the court of a negotiated plea at a hearing held on September 11, 2018. After respondent’s counsel detailed the terms of the plea, the State added: “the other counts are being dismissed at sentencing but used in aggravation and *** restitution. There’s restitution.” When asked if that comported with his understanding of the negotiated plea, respondent responded affirmatively.

¶ 51 We note that respondent fails to address the State’s comments in which it explicitly stated that the dismissed charges would be used for restitution purposes. He does not include those comments in his factual summary, nor does he address them in reply after the State raised them in its brief.

¶ 52 Section 5-5-6(d) of the Unified Code plainly contemplates the precise situation at issue here. It provides that, as part of a plea agreement, the State may still seek restitution to the victims of offenses where the charges related to those offenses have been dropped. The record reflects that the State indicated that under its agreement with respondent it intended to do just that. Respondent affirmed his understanding of the agreement. Accordingly, we find that no error was committed.

¶ 53 We next address defendant's separate argument that the court's reservation of the issue of additional restitution to Rodgers was improper.

¶ 54 This court has previously found that the reservation of the issue of restitution is not a power available to the circuit court under section 5-5-6 of the Unified Code, and thus requires reversal. *People v. Jones*, 176 Ill. App. 3d 460, 465-66 (1988). The Fourth District has reached the same conclusion, referring to a restitution order reserving restitution as "an invalid order." *People v. Stinson*, 200 Ill. App. 3d 223, 224 (1990). More recently, and in a case involving a minor, the Fourth District opined that "Generally, restitution must be ordered at the time of the dispositional hearing after a minor has been found delinquent." (Emphasis added.) *In re M.Z.*, 296 Ill. App. 3d 669, 673 (1998). There the court found that the specific factual circumstances of that case warranted a reserved restitution order.

¶ 55 In the present case, defendant was initially charged with being in possession of Rodgers's stolen iPad, valued at over \$500. The State indicated at sentencing that the return of the iPad would be significantly less expensive for respondent, in terms of restitution. Indeed, it is unclear that Rodgers would be entitled to any monetary restitution if the iPad were returned. The circuit court could simply have ordered respondent to pay Rodgers the value of the iPad. By instead

reserving monetary restitution so that respondent could return the iPad, the court made a judgment very much to respondent's benefit.

¶ 56 Even if the present restitution order is considered error under the early precedents described above, it does not amount to second-prong plain error. Rather than being “so egregious as to deny the defendant a fair sentencing hearing” (*Hillier*, 237 Ill. 2d at 545), the “error” was actually more fair to respondent. Allowing the 15-year-old respondent to return the property, rather than imposing a bill of more than \$500, reflects quite well on “the integrity of the judicial process.” *Sebbby*, 2017 IL 119445, ¶ 50. Accordingly, we find no plain error.

¶ 57 III. CONCLUSION

¶ 58 For the foregoing reasons, we affirm the judgment of the circuit court of Rock Island County.

¶ 59 Affirmed.

¶ 60 JUSTICE McDADE, dissenting:

¶ 61 In sentencing respondent to a term in the IDOJJ, the circuit court did not comply with two statutory mandates set forth in the Act. Those failures necessitate that respondent's sentence be vacated and the matter remanded for resentencing. I therefore respectfully dissent.

¶ 62 First, the circuit court failed to find that a term in the IDOJJ was the least restrictive sentencing alternative for respondent, as required by the Act. 705 ILCS 405/5-750(1)(b) (West 2018). Multiple courts have concluded that this requirement of the Act may only be satisfied with an express or explicit finding by the court. *Henry P.*, 2014 IL App (1st) 130241, ¶¶ 59-60; *W.L.*, 2016 IL App (2d) 140486-B, ¶ 52. The court in this case did not make such a finding at the original sentencing hearing and did not make such a finding upon respondent's motion for reconsideration.

¶ 63 The majority contends that *Henry P.* and *H.L.* are distinguishable. It maintains that the court in those cases failed to even discuss less restrictive alternatives, while the court in this case “methodically considered the most viable alternatives to a term in the IDOJJ.” *Supra* ¶ 26. This is a distinction without a difference. The Act does not mandate merely that the court consider other alternatives. It requires that the court find that commitment to the IDOJJ is the least restrictive alternative. 705 ILCS 405/5-750(1)(b) (West 2018). While the court here certainly set the groundwork for such a finding, it never actually offered an affirmative decision.

¶ 64 The majority remarks that, regarding whether a term in the IDOJJ was the least restrictive sentencing alternative, “[t]he [circuit] court’s opinion need not be inferred.” *Supra* ¶ 30. This is demonstrably false. The court never directly stated that it found a term in the IDOJJ to be the least restrictive alternative. The majority, in fact, infers that finding from the court’s commentary.

¶ 65 Requiring the circuit court to expressly make a least restrictive alternative finding does not “elevate[] form over substance.” *Supra* ¶ 31. It merely applies the plain language of the statute. It ensures that no minor will be sentenced to the IDOJJ where less restrictive alternatives are available. It also saves the appellate court from the need to divine the meaning behind the circuit court’s various connotations and insinuations. For all of that, the requirement does not impose an onerous burden on the court: Satisfied that a sentence to the IDOJJ is, in fact, the least restrictive alternative, the circuit court need simply say as much, and the Act is satisfied. Because the court failed to comply with the Act by failing to make a least restrictive alternative finding, I would remand the matter for resentencing.

¶ 66 I would also find that the court violated the Act in a distinct second way. Specifically, the Act requires that the court, before sentencing a minor to a term in the IDOJJ, review “[s]ervices

within the [IDOJJ] that will meet the individualized needs of the minor.” 705 ILCS 405/5-750(1)(b)(G) (West 2018). The court here conducted no such review; if it had, it surely would have reached the conclusion that no evidence concerning the IDOJJ services that might meet those needs was ever introduced.

¶ 67 The majority finds that “[t]he court properly conducted the review mandated by the Act.” *Supra* ¶ 40. At the initial sentencing hearing, the court’s entire commentary on the matter amounted to the following: “I’m finding that the services within the [IDOJJ] will meet the individualized needs of the minor.” At the hearing on respondent’s motion for reconsideration, the court added: “He needs to improve in his decisionmaking.” These comments are insufficient on their face. To find that such bromides satisfy the “individualized need” requirement set forth in the Act is to render that statutory requirement utterly meaningless.

¶ 68 The majority also points out that the social history report in this case indicated that respondent struggled with poor decision-making, and indicated that services available within the IDOJJ would allow him to address those problems. The Act, however, requires a “review” of “[s]ervices within the [IDOJJ].” 705 ILCS 405/5-750(1)(b)(G) (West 2018). Not only did the social history report not identify or discuss any particular services in the IDOJJ, the circuit court did not even reference specifically that services in the IDOJJ could help respondent with his decision-making. It strains credulity and common sense to construe the brief comments of the court as a “review” of any services.

¶ 69 Finally, I would note that the record before us is replete with references to respondent’s mental health struggles. Regarding respondent’s mental health, the social history report indicated respondent first began seeing a psychiatrist in 2007, when he was three years old. At that time, he was diagnosed with oppositional defiant disorder. In 2009, he was diagnosed with ADHD. He

received further psychiatric evaluations in 2009, 2013, and 2018. Respondent and his mother reported that respondent had bipolar disorder. Respondent was currently prescribed Focalin and mirtazapine. The social history report recommended that respondent “engage in psychiatry services in order to stabilize and manage his mental health symptoms.”

¶ 70 The majority dismisses these concerns, remarking that respondent “had seen psychiatrists from time to time” and that there was no “indication of a nexus between respondent’s mental health issues and the behavior for which he was being sentenced.” *Supra* ¶ 45. Yet the social history report also indicated that respondent had many psychiatrist appointments that he was unable to attend due to transportation or financial issues. Further, the report relayed a 2018 mental health assessment that read: “The minor’s mother reported that his behavior was horrible. She reported that when he is not on his meds it just seemed like everything would go wrong.” The social history report consistently discusses oppositional defiant disorder and ADHD as behavioral issues.

¶ 71 Respondent undeniably suffers from mental health issues that impact his behavior. The circuit court made no reference to these issues. There was no evidence put before the court concerning any services within the IDOJJ that might help respondent with these issues. The court thus violated the Act when it sentenced respondent to a term in the IDOJJ. 705 ILCS 405/5-750(1)(b)(G) (West 2018).

¶ 72 Section 5-750 of the Act reflects the legislature’s reasoned judgment that a minor should only be sentenced to a term in the IDOJJ as a last possible resort. Accordingly, section 5-750 enacts numerous safeguards to ensure that result. Among these, the circuit court must find that such a sentence is the least restrictive alternative. *Id.* § 5-750(1)(b). The court must also first consider the services within the IDOJJ that may be used to address each particular minor’s

individualized needs. *Id.* § 5-750(1)(b)(G). The court in this case failed to fulfill each of these requirements. Accordingly, I would vacate respondent's sentence and remand the matter for resentencing.

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
ROCK ISLAND COUNTY, ILLINOIS

People of the State of Illinois
Plaintiff-Appellee

VS.

CASE #: 18JD113

[Redacted]
Defendant - Appellant

NOTICE OF APPEAL

An appeal is taken from the Order or Judgment described below.

1. Court to which appeal is taken: Third Judicial District, 1004 Columbus Street, Ottawa, IL 61350
2. Name of appellant and address to which notice shall be sent.
NAME [Redacted]
ADDRESS: 604 E 8th Street
Davenport, IA 52803
3. Name and address of Appellant's Attorney on appeal.
NAME: Peter A Carusona
ADDRESS: 770 E. Etna Road, Ottawa, IL 61350
TELEPHONE: 815-434-5531
If appellant is indigent and has no Attorney, does he want one appointed? yes
4. Date of order or judgment: 6/14/19
5. Offense of which Adjudicated: Count 4 Unlawful possession of a firearm. Count 6 Unlawful possession of a stolen Motor Vehicle. Count 7 Theft
6. Sentence: 7 years or until 21st birthday in the Dept of Juvenile Justice.
7. If appeal is not from a conviction, nature of order appealed from: Ruling on Motion to reconsider.

SIGNED: *Sammy Reiter*



SUPREME COURT OF ILLINOIS

SUPREME COURT BUILDING
200 East Capitol Avenue
SPRINGFIELD, ILLINOIS 62701-1721
(217) 782-2035

FIRST DISTRICT OFFICE
160 North LaSalle Street, 20th Floor
Chicago, IL 60601-3103
(312) 793-1332
TDD: (312) 793-6185

March 04, 2020

In re: In re J.M.A., a Minor (People State of Illinois, Appellee, v. J.M.A.,
Appellant). Appeal, Appellate Court, Third District.
125680

The Supreme Court today ALLOWED the Petition for Leave to Appeal in the above entitled cause.

We call your attention to Supreme Court Rule 315(j) concerning certain notices which must be filed.

Very truly yours,

Carolyn Taft Gosbell

Clerk of the Supreme Court

APPEAL TO THE APPELLATE COURT OF ILLINOIS
THIRD JUDICIAL DISTRICT
FROM THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
ROCK ISLAND COUNTY, ILLINOIS

IN THE INTEREST OF [REDACTED])	
)	Reviewing Court No: 3-19-0346
)	Circuit Court No: 2018JD113
)	Trial Judge: Theodore G Kutsunis
)	

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APPEAL TO THE APPELLATE COURT OF ILLINOIS
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FROM THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
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APPEAL TO THE APPELLATE COURT OF ILLINOIS
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FROM THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
ROCK ISLAND COUNTY, ILLINOIS

IN THE INTEREST OF [REDACTED])	
)	Reviewing Court No: 3-19-0346
)	Circuit Court No: 2018JD113
)	Trial Judge: Theodore G Kutsunis
)	

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APPEAL TO THE APPELLATE COURT OF ILLINOIS
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