

IN THE NEBRASKA COURT OF APPEALS

**MEMORANDUM OPINION AND JUDGMENT ON APPEAL
(Memorandum Web Opinion)**

STATE V. TITSWORTH-HUNT

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STATE OF NEBRASKA, APPELLEE,

v.

TRENTON TITSWORTH-HUNT

Filed September 1, 2026. No. A-26-110.

Appeal from the District Court for Douglas County: J RUSSELL DERR, Judge. Affirmed as modified.

Steven M. Delaney and Megan E. Shupe, of Reagan, Melton & Delaney, L.L.P., for appellant.

Michael T. Hilgers, Attorney General, and Jacob M. Waggoner for appellee.

PIRTLE, WELCH, and PICCOLO, Judges.

WELCH, Judge.

INTRODUCTION

Trenton Titsworth-Hunt appeals from his plea-based convictions for two counts of robbery and two counts of use of a weapon to commit a felony. On appeal, Titsworth-Hunt contends that the district court erred by failing to consider all mitigating information and imposing a predetermined sentence and that the sentences imposed are excessive. We find that the district court considered the appropriate sentencing factors, that Titsworth-Hunt's sentences were not predetermined, and that his sentences were not excessive. However, due to a defect in sentencing regarding credit for time served, we affirm Titsworth-Hunt's convictions and sentences but modify the credit for time served to apply to the aggregate of all terms imposed.

STATEMENT OF FACTS

After a string of crimes committed by a group of young people, including then-17-year-old Titsworth-Hunt, the State charged Titsworth-Hunt with two counts of robbery, Class II felonies; three counts of use of a firearm to commit a felony, Class IC felonies; first degree murder, a Class 1A felony; and first offense unlawful possession of a firearm by a prohibited juvenile offender, a Class IV felony.

Pursuant to a plea agreement, Titsworth-Hunt pled no contest to an amended information charging him as follows: count 1, robbery, a Class II felony; count 2, use of a firearm to commit a felony, a Class IC felony; count 3, robbery, a Class II felony; and count 4, use of a firearm to commit a felony, a Class IC felony.

The State provided a factual basis that set forth that on August 13, 2024, around 6:30 a.m., a group of young adults, not including Titsworth-Hunt, broke into a Nebraska City gun store, stole weapons, and returned to Omaha, Nebraska. Later that day, Titsworth-Hunt met up with the group. The stolen vehicle that the group was using was running out of gas, so they looked for another car to steal. At a gas station located at 120th and Dodge Street, the group encountered two individuals in a Mercedes and attempted to steal that vehicle. During the course of the attempted car theft, the group stole the two individuals' wallets at gunpoint. The group, including Titsworth-Hayes, attempted to steal the Mercedes but were unable to do so. The group left the gas station and unsuccessfully attempted to break into another car. They then followed a Kia into the parking garage of an apartment complex, pointed a gun at Mursal Jama, the Kia's owner, and attempted to take his vehicle. Jama resisted and was shot in the abdomen, later dying from those injuries. Titsworth-Hunt was not the shooter but participated in the events and left with the group in the stolen Kia. The group then returned to the Nebraska City gun store but when they arrived, they were observed by a sheriff's deputy. This led to a pursuit through several Nebraska counties and involved several law enforcement agencies. Eventually, the group in the Kia returned to Douglas County where they crashed the Kia near 46th and Q streets. Titsworth-Hunt was arrested several hours after the car crash.

During the sentencing hearing, the district court stated:

In crafting an appropriate sentence in this or any case, particularly when the range of [the] sentence is so long, . . . I have to take into consideration a lot of factors – of course, the actions of [Titsworth-Hunt] that resulted in these charges, and that's very important here; his prior criminal record. He does have a pretty good Juvenile Court record.

And I think [the prosecutors] are correct in that I think a lot of the consideration of the relative youth . . . of all of the defendants, and particularly of [Titsworth-Hunt], who I believe is the oldest of the four who were charged in adult court – and, as I understand this case, it probably would not have been a long stretch to convict [Titsworth-Hunt] of . . . felony murder. We all know, apparently, that he didn't pull the trigger.

But what's important here is that he may not have been the leader of this group, but he had many opportunities not to be involved at all, even after the initial robbery attempt at the [gas station] at 120th and Dodge. He could have removed himself from that group. Apparently, he willingly went with them to the apartments and resulted in the . . . shooting of Mr. Jama and stealing of his car. And [Titsworth-Hunt] could have split himself off from

the group, but he went to Nebraska City where it was clearly their intent to, once again, enter and rob the gun store down there.

Of course, then there was the high-speed chase through three or four counties, triple digits. And then, once the car was disabled, [Titsworth-Hunt] fled. I mean, there are all kinds of opportunities to disengage from the acts. And quite frankly, when you're walking around at midnight, 1:00 in the morning armed – at least one of them was obviously armed – bad things happen.

. . . again, the State did not pursue the murder charges, so, in that sense, great consideration has already been given to [Titsworth-Hunt]. He was facing, under those circumstances, a life sentence. He, obviously, is not going to get that today. But I really have very little difficulty in differing the sentences that I'm about to impose in this case with the other two codefendants that have already been sentenced.

The court sentenced Titsworth-Hunt as follows: count 1, robbery, 10 to 15 years' imprisonment; count 2, use of a firearm to commit a felony, 5 to 10 years' imprisonment; count 3, robbery, 20 to 25 years' imprisonment; and count 4, use of a firearm to commit a felony, 15 to 20 years' imprisonment. The court awarded Titsworth-Hunt credit for time served of 543 days against count 1. The court also ordered Titsworth-Hunt's sentences to be served consecutively resulting in an aggregate sentence of 50 to 70 years' imprisonment. Titsworth-Hunt has timely appealed to this court.

ASSIGNMENTS OF ERROR

Titsworth-Hunt assigns as error that (1) the district court erred by failing to consider all mitigating information and imposing a predetermined sentence and (2) the sentences imposed are excessive.

STANDARD OF REVIEW

An appellate court will not disturb a sentence imposed within the statutory limits absent an abuse of discretion by the trial court. *State v. Rejai*, 320 Neb. 599, 29 N.W.3d 225 (2026). An abuse of discretion occurs when a trial court's decision is based upon reasons that are untenable or unreasonable or if its action is clearly against justice or conscience, reason, and evidence. *Id.*

ANALYSIS

MITIGATING EVIDENCE/PREDETERMINED SENTENCE

Titsworth-Hunt contends that the district court erred by failing to consider all mitigating information and imposing a predetermined sentence. He argues that the district court abused its discretion as follows:

by failing to meaningfully fully consider all mitigating information presented before sentencing and by imposing a sentence that appears to have been predetermined before the . . . sentencing hearing. The record reflects that counsel provided a detailed sentencing memorandum addressing the scientific basis for treating juvenile offenders differently from adults, [Titsworth-Hunt's] lesser role in the offenses, his age at the time of the conduct, and his rehabilitative potential. Yet the court's comments before and during sentencing,

together with the written Commitment Order, demonstrate that the sentence was not individualized to [Titsworth-Hunt].

Brief for appellant at 16. He further argues:

Before the . . . sentencing hearing, counsel provided the District Court with a 15-page sentencing memorandum. The memorandum asked that it be included in the Presentence Investigation [Report] and considered by the Court in determining the appropriate sentence. The memorandum went directly to the heart of the sentencing determination. It discussed [Titsworth-Hunt's] age, history, role in the offense, lack of leadership, absence from the Nebraska City gun shop robbery, lack of firearm use, lack of initiation of contact with victims, and his developmental immaturity.

The memorandum was also replete with scientific studies and legal authority addressing adolescent brain development. It explained that [Titsworth-Hunt] was 17 years old at the time of the offense, that he has since turned 19, and . . . the fact he was legally an adult by the time of sentencing did not erase the mitigating force of youth at the time of the conduct. Counsel attempted to provide the court with educational materials that went directly to why juveniles are treated differently than adults for sentencing purposes.

. . . .

Those principles were not abstract. They were directly tied to the sentencing factors in this case. The memorandum explained how adolescent brain development bears on [Titsworth-Hunt's] age, mentality, education and experience, susceptibility to peer influence, motivation for the offense, ability to extricate himself from the group, level of violence, and capacity for rehabilitation.

Brief for appellant at 17-18.

Although Titsworth-Hunt contends that the sentencing memorandum was not made part of the record, the 15-page memorandum was included in the PSR, which was provided to this court. We appreciate the obvious time spent by counsel involved in the detailed memorandum and counsel's insight and arguments urging the district court to impose "a sentence that reflects my client's youth, his diminished culpability as a subordinate accomplice, his follower personality profile, and the established neuroscience of adolescent brain development" and that "[s]uch a sentence would serve the interests of justice while providing my client with a meaningful opportunity to demonstrate the capacity for rehabilitation that the Supreme Court has recognized as a hallmark of adolescence." However, we note that the record reflects that the district court reviewed the presentence investigation report, including defense counsel's memorandum, which included information concerning all of the factors to be considered by a sentencing court. See *State v. Greer*, 309 Neb. 667, 962 N.W.2d 217 (2021). And Titsworth-Hunt's request would require this court to conduct a de novo review of the record and to determine what sentence this court would impose. It is not the proper function of an appellate court to conduct a de novo review of the record to determine what sentence it would impose. *State v. Hagens*, 320 Neb. 65, 26 N.W.3d 174 (2025). Accordingly, this assignment of error fails.

EXCESSIVE SENTENCES

Next, Titsworth-Hunt contends that the sentences imposed are excessive. Specifically, he argues that the trial court abused its discretion in failing to consider and apply the statutory factors. He argues that “[t]he relevant inquiry for youth-based mitigation is not merely the defendant’s age on the date of sentencing, but his [or her] age, maturity, judgment, susceptibility to peer influence, and developmental capacity **when the conduct occurred.**” Brief for appellant at 9 (emphasis in original). He further argues:

A sentence at the low end of the statutory range would still be a substantial prison sentence. It would recognize the seriousness of the offenses, the harm caused to the victims, and [Titsworth-Hunt’s] legal responsibility for his participation, but it would also recognize the mitigating facts that separate him from the most culpable actors. He was 17 years old, he joined the group later, he was not present for the Nebraska City gun shop robbery, he did not bring or display a firearm, he did not shoot Jama, and the evidence shows him as a follower rather than a leader.

Brief for appellant at 14.

Titsworth-Hunt was convicted of two counts of robbery, Class II felonies, and two counts of use of a firearm to commit a felony, Class IC felonies. See, Neb. Rev. Stat. § 28-324 (Reissue 2016) (robbery; penalty); Neb. Rev. Stat. § 28-1205 (Cum. Supp. 2024) (use of a deadly weapon to commit a felony). Regarding his robbery convictions, Titsworth-Hunt was sentenced to 10 to 15 years’ imprisonment and 20 to 25 years’ imprisonment. These sentences are within the statutory sentencing range for Class II felonies, which are punishable by a minimum of 1 year of imprisonment and a maximum of 50 years’ imprisonment. See Neb. Rev. Stat. § 28-105 (Cum. Supp. 2024). Regarding Titsworth-Hunt’s use of a firearm to commit a felony, the court sentenced him to 5 to 10 years’ imprisonment on one count and 15 to 20 years’ imprisonment on the other count. These sentences are within the statutory sentencing range for Class IC felonies, which are punishable by a mandatory minimum of 5 years’ imprisonment and a maximum of 50 years’ imprisonment. See § 28-105.

Where a sentence imposed within the statutory limits is alleged on appeal to be excessive, the appellate court must determine whether a sentencing court abused its discretion in considering and applying the relevant factors, as well as any applicable legal principles in determining the sentence to be imposed. *State v. Jones*, 318 Neb. 840, 19 N.W.3d 499 (2025).

When imposing a sentence, the sentencing court is to consider the defendant’s (1) age, (2) mentality, (3) education and experience, (4) social and cultural background, (5) past criminal record or record of law-abiding conduct, and (6) motivation for the offense, as well as (7) the nature of the offense, and (8) the amount of violence involved in the commission of the crime. *Id.* However, the sentencing court is not limited to any mathematically applied set of factors. *Id.* The appropriateness of a sentence is necessarily a subjective judgment that includes the sentencing judge’s observations of the defendant’s demeanor and attitude and all the facts and circumstances surrounding the defendant’s life. *Id.*

We note that Titsworth-Hunt argues that the district court “imposed the same sentence as two codefendants who had already been sentenced, without consideration of the mitigating factors

presented relating to [Titsworth-Hunt].” Brief for appellant at 9. However, there is no duty to conduct a comparative analysis of a sentence or sentences with the sentences imposed in other cases. *State v. Rejai*, 320 Neb. 599, 29 N.W.3d 225 (2026).

Titsworth-Hunt was 17 years old when the offenses were committed and was 19 years old at the time of the sentencing hearing. According to the presentence investigation report, Titsworth-Hunt was single and has no dependents. He completed 10th grade but did not graduate from high school or obtain a GED. Titsworth-Hunt was placed on juvenile probation three times, and each time he was unsatisfactorily released from probation. Titsworth-Hunt does not have any prior adult convictions; however, he did receive a substantial benefit from his plea agreement in which the following charges were dismissed: first degree murder, a Class IA felony; use of a firearm to commit a felony, a Class IC felony; and unlawful possession of a firearm by a prohibited juvenile offender (first offense), a Class IV felony. The level of service/case management inventory assessed Titsworth-Hunt as a very high risk to reoffend. Titsworth-Hunt suffered a traumatic event as a 1-year-old, when his mother passed away approximately 1 week after the birth of Titsworth-Hunt’s brother. Titsworth-Hunt was raised by his father and other relatives. Titsworth-Hunt reported minimal use of alcohol and marijuana. Titsworth-Hunt expressed that his desired outcome for this case was that “I just want to be given a second chance to do right in life. We were young, doing dumb stuff. Just give us one more chance.”

We acknowledge defense counsel’s argument that Titsworth-Hunt was not present when the guns were initially stolen and that while he was present at the robberies, Titsworth-Hunt did not possess a gun, nor point a gun at anyone. However, Titsworth-Hunt failed to extricate himself from the dangerous situation that unfolded. Additionally, during the sentencing hearing, the prosecutor mentioned that Titsworth-Hunt had been involved in assaulting a guard at the correctional facility and has been charged as a result of that altercation.

The victim, Jama, who was 64 years old at the time of his murder, was the father of 10 children. One of Jama’s children spoke at the sentencing hearing, expressing the “immeasurable loss” that their family has suffered. She described her father as “a special man” whose life was “guided by his faith in Allah.” She further described Jama as “the most hard-working, kind, patient man we have ever known, and he instilled those same ethics into all of us. He was a man who sacrificed everything to give his children and his wife a better life.” Jama’s daughter described preparing a special dinner when they heard what they thought were fireworks, but within minutes Jama was knocking at their door and yelling. When the family opened the door, “[t]here stood our father with a look of terror on his face, clutching a car lock and yelling he had been attacked. He had bravely walked from the garage before dropping everything he was holding and collapsing into our arms. . . . we saw the blood on his abdomen and put pressure on his wound and held his hand as he said his final prayers.” Then an ambulance whisked Jama away, leaving the family with blood on the floor where Jama had collapsed.

Based upon factors, including that the sentences imposed are within the statutory sentencing ranges, the substantial benefit that Titsworth-Hunt received from his plea agreement, the seriousness of the offenses, and Titsworth-Hunt’s very high risk to reoffend, the sentences imposed were not an abuse of discretion.

PLAIN ERROR

Although not raised by either party, we find that the district court committed plain error in its imposition of credit for time served. The court awarded Titsworth-Hunt credit for time served of 543 days against Count 1, one of the robbery convictions.

In *State v. Nelson*, 318 Neb. 484, 16 N.W.3d 883 (2025), the Nebraska Supreme Court ruled that uniform aggregation principles apply when determining jail credit for multiple sentences imposed contemporaneously, regardless of whether sentences are consecutive or concurrent and credit for time served is required to be applied, just once, to the aggregate of all terms imposed. When a sentencing error is noted on direct appeal, an appellate court can modify the sentence. *State v. Adams*, 320 Neb. 316, 27 N.W.3d 23 (2025). Pursuant to the Nebraska Supreme Court's dictates in *Nelson*, we modify the court's sentencing order to reflect that Titsworth-Hunt is entitled to 543 days of credit for time against the aggregate of all terms imposed.

CONCLUSION

In sum, we affirm Titsworth-Hunt's convictions and sentences but modify his credit for time served to apply to the aggregate of all terms imposed.

AFFIRMED AS MODIFIED.