

COURT OF APPEALS OF VIRGINIA

Record No. 1552-25-4

JEFFREY DONELLE HAMPTON
v.
COMMONWEALTH OF VIRGINIA

Present: Judges Athey, Bernhard and Senior Judge Clements

Argued by videoconference

Opinion Issued September 8, 2026

FROM THE CIRCUIT COURT OF PRINCE WILLIAM COUNTY

Kimberly A. Irving, Judge

Collin Chayce Crookenden (Vanderpool, Frostick & Nishanian, P.C., on brief), for appellant.

Paul-Michael R. Lowey, Assistant Attorney General (Jay Jones, Attorney General, on brief), for appellee.

PUBLISHED OPINION BY JUDGE CLIFFORD L. ATHEY, JR.

A Prince William County jury found Jeffrey Donelle Hampton (“Hampton”) guilty of recklessly handling a firearm and unlawfully discharging a firearm at an occupied building. Following the completion of the jury trial on the aforementioned charges, the Circuit Court of Prince William County (“trial court”) also conducted a bench trial after which Hampton was also convicted of possessing a firearm after having previously been convicted of a non-violent felony. Following a sentencing hearing, the trial court sentenced Hampton to 10 years and 12 months’ incarceration, with 5 years and 12 months suspended. On appeal, Hampton claims that the trial court abused its discretion during sentencing, citing several remarks the trial court made during post-trial proceedings. For the following reasons, we affirm the trial court’s judgment.

I. BACKGROUND

On May 20, 2023, Sade Anglin (“Anglin”) and her new boyfriend, Michael Hawkins (“Hawkins”), became engaged in a physical altercation while in their apartment. The altercation occurred during a party celebrating the birthday of Hawkins’s stepbrother, Derick Batchelor (“Batchelor”). During the altercation, Anglin’s six-year-old son and several other children were present in the apartment and witnessed the altercation. As a result, Hawkins ended his relationship with Anglin.

The following morning, Anglin contacted Hampton, who is the father of her six-year-old son. She requested that Hampton pick up their son because Hawkins had “threatened” him. As a result, Hampton drove to the apartment complex where Anglin and Hawkins lived in order to pick up their son. Hampton parked 80 yards from the apartment, armed himself with a .380 caliber pistol, and began walking shirtless toward the apartment. Meanwhile, Hawkins and Batchelor were removing Hawkins’s possessions from the apartment. As Hampton approached the apartment, gunfire was exchanged. As a result of the gunfire, Hawkins sustained a single gunshot wound that entered his buttock and exited through the front of his leg. Hawkins succumbed to the single gunshot wound the following day after being transported to the hospital. Police subsequently arrested Hampton about four months later when he turned himself in to law enforcement.

Hampton was initially charged with second-degree murder, in addition to numerous other firearm charges. Prior to trial, the Commonwealth moved to amend the murder charge to involuntary-manslaughter, contending that Hampton only set in motion the means by which another person shot and killed Hawkins. Based upon the Commonwealth’s proffer, the trial court granted the motion to amend the indictment. Following the amendment, Hampton was ultimately charged with involuntary manslaughter, in violation of Code § 18.2-36; attempted malicious wounding, in violation of Code §§ 18.2-26, -51.2; using a firearm in the commission of a felony, in violation of

Code § 18.2-53.1; maliciously discharging a firearm at an occupied building, in violation of Code § 18.2-279; discharging a firearm in a public place, in violation of Code § 18.2-280; possessing a firearm after having previously being convicted of a non-violent felony, in violation of Code § 18.2-308.2(A); misdemeanor brandishing a firearm, in violation of Code § 18.2-282; and misdemeanor reckless handling of a firearm, in violation of Code § 18.2-56.1. The felon-in-possession charge was then severed from the other charges and set for a bench trial to occur based upon the outcome of the jury trial. The remaining charges proceeded to a five-day trial by jury that began on October 16, 2024.

During Hampton's jury trial, Batchelor testified that Hampton had approached the apartment "clutching" the .380 pistol, meaning that "[Hampton] was holding [the] gun." He further testified that Hampton shot at Hawkins when Hawkins exited the apartment. He then explained to the jury that Hawkins initially retreated and then returned fire at Hampton with a .300 caliber rifle. Batchelor recalled running to assist Hawkins after he heard Hawkins exclaim that he had been shot. Batchelor then recalled saying, "Give me the F'ing 26"—referring to a Glock 26 handgun that shoots 9mm caliber bullets—because "[he] wanted to go after the person that shot [his] brother."

One of the crime scene investigators assigned to the case testified that he found four .380 caliber cartridge cases at the scene next to a car parked outside the apartment. Four .300 caliber cartridge cases that were located closer to the "sidewalk area in front of the apartment" were also recovered by investigators. In addition, other law-enforcement officers also testified that they found a 9mm caliber bullet that "fell out of [Hawkins's] shorts" when they initially assessed his gunshot wound. Forensic examination further revealed that Hawkins's gunshot wound resulted from a 9mm caliber bullet. Although the origin of the 9mm bullet was not determined, the evidence as a whole indicated that the 9mm bullet was likely fired by a third party. In fact, the Commonwealth conceded that the bullet that killed Hawkins did not come from Hampton's gun.

Investigators next testified that they recovered several bullet fragments in nearby homes. One of the bullet fragments recovered was found “between a bunk bed in [a] children’s room and the wall” in a neighboring apartment. Another fragment was recovered from the wall of a different neighbor’s living area. In addition, several vehicles in the parking area near the scene of the shootout were also damaged by gunfire.¹ The Commonwealth also introduced in evidence video footage from an interior security camera in another neighbor’s home, depicting that neighbor diving behind cabinets once the shooting began.

At the conclusion of the Commonwealth’s case-in-chief, Hampton moved to strike each of the charges. Hampton then withdrew his motion and began his own case-in-chief. Hampton testified that on the day of the shooting, he approached the apartment with the .380 pistol concealed in his pocket. He further explained to the jury that as he approached the apartment, Hawkins came outside and instructed Batchelor to “[g]rab the AR, grab the AR.” Hampton recalled that Hawkins then retrieved the .300 caliber rifle from a vehicle and pointed the rifle at him. Hampton explained that because of Hawkins’s actions, he was forced to take cover behind a car and that it was only then that he “pulled [his] gun out.” He testified that Hawkins fired at him first and he returned fire “over the top of the car.” He explained that he “didn’t see where [he] was actually shooting” and only returned fire because “[he] didn’t think [he] was going to make it [out] from behind that car alive.” He also repeatedly represented to the jury that “[his] intent when [he] [was] shooting” was “to defend [him]self” and to “fire[] the gun so [Hawkins] couldn’t walk down on [him] and shoot [him].”

Hampton also testified that, after the shootout, he fled the scene and did not call police because “[he] was scared.” He stated that later that same day, he “gave [the gun he used] to a

¹ Hampton did not admit that he caused the damage to the vehicles. However, he did acknowledge that the bullet fragment found in the wall of the neighbor’s living area originated from his firearm.

friend” and told his friend “to get rid of it.”² Hampton explained that he had not seen the gun he used in the shootout since he gave it to his friend. He also explained that he did not turn himself in for several months because he was taking care of “two litters of puppies” until they could “fend for themselves,” “getting [his] kids together and getting everything together,”³ and “try[ing] to find counsel to represent [him] . . . with the[] charges that w[ere] put on [him].”

Hampton then rested his case-in-chief and the Commonwealth offered no rebuttal. Hampton then moved to strike each of the charges. The trial court granted his motion only with respect to discharging a firearm in a public place. The trial court instructed the jury and both parties presented their closing arguments. The jury then retired to deliberate. During deliberations, the jury inquired whether they should “automatically” find Hampton “not guilty on all charges” if they believed he acted in self-defense. After discussing the question and an appropriate response thereto with counsel for Hampton and the Commonwealth, the trial court provided the jury a written response, stating that “self[-]defense is an available defense for each of the charges, and you should consider it when analyzing each one of the charges.”

The jury subsequently returned its verdicts, convicting Hampton of recklessly handling a firearm and unlawfully discharging a firearm at an occupied building. The jury acquitted Hampton of using a firearm in the commission of a felony, attempted malicious wounding, brandishing a firearm, and involuntary manslaughter. Shortly after the reading of the jury’s verdicts, the trial court held a bench trial before separately convicting Hampton for possessing a firearm after having previously been convicted of a non-violent felony.

² Hampton’s friend subsequently died of an overdose after receiving the gun Hampton used in the shootout.

³ Hampton testified that he has ten children.

Hampton then moved to be admitted to bail. During the post-trial bail hearing, the Commonwealth asserted that Hampton was both a flight risk and a danger to the community due to his decision to show up to the apartment armed. Hampton responded that he was justified in bringing the firearm to the apartment the day of the shootout. The following colloquy then ensued:

[HAMPTON]: But, Judge, I have to say this, and this doesn't make it right, but if he didn't have that firearm that day, he might not be here. He may not be here, Judge. I am not justifying it, but I believe that the jury agreed with us that he was defending himself.

[TRIAL COURT]: No. No, that's—the jury agreed that they didn't prove beyond a reasonable doubt the other, and you and I both know that that's how that goes.

[HAMPTON]: Okay. Well, possibly.

The trial court then began discussing the felon-in-possession conviction:

[TRIAL COURT]: So, on the one hand, [p]retrial; right?

[HAMPTON]: Uh-huh.

[TRIAL COURT]: We don't know then that he is going to be convicted of anything. He stands here now differently than he did before, because he is convicted, which actually makes it worse; right?

[HAMPTON]: Right.

[TRIAL COURT]: But not convicted of all of the charges that came about, which I understand.

[HAMPTON]: Right.

[TRIAL COURT]: I am going to tell you, Mr. Hampton, I think you may just be in the position of being unlucky enough to have maybe the wrong judge. I despise these felons with convictions in possession of a firearm cases. I do, because this is what's happening on our streets.

And the fact that he got rid of the gun, and nobody has ever found it, and, "Oh, the person I gave it to died, and I don't know what happened to it," I find to be garbage. It means there is a gun with a body on it somewhere out there, probably sold on the black

market, that is going to come back around to the same problem we are having right now, and that is problematic to me.

And so I've got to sit here and think, realistically, what am I going to do with an individual who is a convicted felon, who carried a gun—regardless of what happened on that day—when you are not supposed to, who then got rid of that gun, didn't turn it in, and it is now floating around somewhere.

. . . .

[T]his is not whether you are a flight risk or a danger to the community. That ship has sailed. That ship is gone. We are now sitting here saying, what makes sense with somebody who has been convicted of two felonies and one misdemeanor, that is going to be sentenced accordingly?

The trial court then clarified, "I am not sitting here saying [Hampton] [is] getting eleven years of active time. He's not. I'm not doing that, you know." The trial court subsequently denied the motion for post-trial bail.

At the subsequent sentencing hearing, Hampton "request[ed] a sentence within the sentencing [guidelines] range."⁴ In support, he claimed that he "did not have an extensive criminal record." He also asserted that his involvement in a previous shooting incident in which he was targeted was his reason for carrying a firearm and maintained that he was defending himself from Hawkins.

The trial court disagreed with Hampton's assertions. Concerning his criminal record, the court noted that Hampton had convictions for drug offenses, eluding, firearm offenses, assault and battery, and contempt of court. The trial court also addressed the way Hampton approached the apartment, referencing Batchelor's testimony at trial that Hampton "was clutching" his gun. And the trial court emphasized the surrounding circumstances of the shooting when expressing that it was "not sure this [wa]s a guidelines case":

⁴ The sentencing guidelines recommended a range from 7 months' to 1 year and 11 months' incarceration.

I can't ignore the fact that at some point, somebody has to say we're not having gunfire in the middle of these apartment dwellings and townhouse complexes that put all of these little kids in danger who are simply trying to play outside; and when you bring a firearm into that, that's what you do.

The fact of the matter is there were bullet holes in people's residences; and that's a problem. They did not all come from him, though, and that's mitigating.

In addition, the trial court emphasized that Hampton "was on the run" for four months before turning himself in, further warranting a longer sentence. The trial court also highlighted that due to Hampton previously being convicted of a felony, he lost his ability to lawfully possess a firearm, no matter his justification for having one—a statement with which Hampton agreed.

Hampton then responded that the jury accepted his theory that he was defending himself, further claiming that, had he not been "armed that day," he would be dead. The following exchange ensued:

[HAMPTON]: Judge, I think we could agree on this one point: If he wasn't armed that day, . . . this would have been a funeral.

[TRIAL COURT]: That's not—see, and there's where we disagree. I'm not sure that's true. I'm not sure that it was not proven beyond a reasonable doubt that he acted in self-defense.

But the standards are what the standards are. I'm not sure that if he hadn't brought a gun—I believed every person who said he walked out and was clutching. I believed when he took his shirt off and he walked up there and he had a gun in his pocket, that people who have seen people with a gun in their pocket knew he had a gun in his pocket. And I am not sure that he's not the one that triggered it just by clutching a firearm, walking into there.

And if I did, I wouldn't be struggling with this. If I thought for sure that his life was at danger but for him bringing a firearm, we wouldn't be having this conversation. I would happily look within the guidelines that there are. But I'm not sure about that.

The standard of beyond a reasonable doubt means that the jury couldn't beyond a reasonable doubt find. You've got these two different events. And the videos, while some of them were good, they weren't all great, there are some things that were crystal clear. And to me, the fact that everybody saw him clutching, the fact that I heard that on the video is crystal clear. And so I'm not

going to jump in and say, well you know, he'd be dead if he didn't bring a firearm here.

I don't know that an entire neighborhood wouldn't have been the victim of a shootout in the middle of an afternoon day where kids are had he not brought a gun there. I'm not sure that that's not what started this. I have no doubt that the phone call from [Anglin] played a role. I have no doubt in that. But the reaction of him, I believe, played a role, as well.

....

The fact of the matter is the jury found him not guilty beyond a reasonable doubt, and that is their function and their job, and I'm not sure they're wrong. But the flip of it doesn't mean that's correct either.

At the same time, the trial court emphasized that it was cognizant of the jury's findings and did not seek to overturn them, albeit erroneously calling the involuntary-manslaughter charge "murder":

I can't ignore the jury verdict. And the reality is the jury found him not guilty of the murder. And they even found, into the occupied dwelling, a lesser mens rea than what was charged. I can't ignore that. It would be wrong for me to sentence him to 11 years when a jury of his peers dropped those, even though I doubted some of what he had to say.

Hampton, during allocution, expressed remorse, apologized to Hawkins's family, and stated that he was "just trying to protect [him]self." The trial court, finding the guidelines' recommendation inadequate, then sentenced Hampton to 5 years' active incarceration: 5 years' incarceration, with 4 years suspended, for his felon-in-possession conviction; 5 years' incarceration, with 1 year suspended, for his unlawfully discharging a firearm at an occupied dwelling conviction; and 12 months' incarceration, all suspended, for his reckless handling of a firearm conviction. The trial court entered its sentencing order on February 5, 2025.

Hampton moved for reconsideration of his sentence, pursuant to Code § 19.2-303, in May of 2025. He asserted that the trial court's sentence was "contrary to the jury's findings." Hampton also claimed that the jury implicitly accepted his self-defense theory and found that he

“did not instigate the shooting.” In Hampton’s view, the trial court’s finding at sentencing that he played a role in instigating the shootout was erroneous. He argued that the trial court’s “interpretation of the facts at sentencing must flow from the findings of the jury.” Finally, Hampton emphasized the trial court’s misstatements at sentencing concerning his burden to prove self-defense and that the jury found him not guilty of “murder.”

At the reconsideration hearing, the trial court stated, “[M]otion[s] for reconsideration . . . [are] not something I take up often, however, the record in this case deserves some clean up which is why I did take this up the way I did.” It clarified that the jury “[did]n’t have to find beyond reasonable doubt that [Hampton] acted in self-defense” to acquit him and that a defendant’s self-defense theory need only “give[] rise to reasonable doubt.” And because the murder charge had been amended to manslaughter before trial, the trial court agreed that it “shouldn’t have said murder. Sometimes we talk so quickly that we misspeak.”

Concerning the jury’s findings, the trial court “struggle[d] with the idea” that the jury’s verdict implied that it definitively accepted Hampton’s theory. The trial court reasoned that, although the jury acquitted Hampton of manslaughter, “that d[id]n’t mean that [the jury] found that he acted in self-defense. It mean[t] that they didn’t find that the Commonwealth proved beyond a reasonable doubt each of the elements they need[ed] to prove.” Continuing, the trial court stated that it did not know what specific facts the jury accepted or rejected during deliberations, further asking, “[D]id [the jury] find that [Hampton] didn’t instigate [the shootout]? . . . Or could they just not find that he did?” The trial court further explained that it did not think it gave significant weight to an improper factor during sentencing because it gave weight to “the fact that . . . [there was] a shootout in the middle of a parking lot on a Sunday with people who shouldn’t have guns.”

Finally, the trial court addressed its comments from the post-trial bail hearing. In response to Hampton re-raising the trial court's statement of distaste toward felon-in-possession cases, the trial court stated, "I do. I said that really to let the Commonwealth know I have no idea why it is that they constantly break these down, including in this case." The trial court then explained why it only sentenced Hampton to one year of active time for the felon-in-possession charge in light of its comments at the post-trial bond hearing. It described how the court first "determined . . . that [Hampton's convictions] w[ere] worth five years because" there were "bullets in one old lady's house and bullets in a bunkbed of somebody else," then concluded that the unlawful-discharging charge warranted "the majority of the time . . . because, the fact of the matter is, you can't discharge firearms in random people's houses." The following colloquy then ensued:

[TRIAL COURT]: [D]o you ever read your own transcripts?

[HAMPTON]: I do.

[TRIAL COURT]: It's painful.

[HAMPTON]: And I hate it.

[TRIAL COURT]: It's painful to do. I accepted this [motion] because as I read it—and I will fully acknowledge I enjoyed [Hampton's trial counsel] being up there. The fact of the matter is having an intellectual conversation with very capable lawyers fits right within the things I enjoy doing.

. . . .

I went back through the file to think and I never know what I'm thinking at the day, but I have notes and I reviewed them and the reality is he was still a convicted felon who brought a gun and there were still houses that were shot up as a result, in a neighborhood that may never be the same because it's not what we expect in Prince William County on a Sunday afternoon.

You know, everything else was very conversant with [Hampton's counsel]. Maybe I should learn to be less conversant when I am dealing at such high stakes because I certainly don't mean to cloud the issues. But I respect [Hampton's] read of things

and as soon as I got his written motion, I thought oh, he's absolutely right.

The trial court concluded, "I think five years was the right sentence," adding, "[M]y words were wrong. I don't think my decision was wrong." The trial court then denied Hampton's motion to reconsider his sentence. Hampton appealed.

II. ANALYSIS

A. *Standard of Review*

"A [trial court's] sentencing decision will not be reversed unless the trial court abused its discretion." *Garibaldi v. Commonwealth*, 71 Va. App. 64, 67 (2019) (quoting *Martin v. Commonwealth*, 274 Va. 733, 735 (2007)). "Only when reasonable jurists could not differ can we say an abuse of discretion has occurred." *Khine v. Commonwealth*, 82 Va. App. 530, 558 (2024) (quoting *Commonwealth v. Swann*, 290 Va. 194, 197 (2015)).

Regarding pure "challenge[s] to the duration of imprisonment," "our view adheres to the 'general proposition that once it is determined that a sentence is within the limitations set forth in the statute under which it is imposed, appellate review is at an end.'" *Minh Duy Du v. Commonwealth*, 292 Va. 555, 564-65 (2016) (quoting *Dorszynski v. United States*, 418 U.S. 424, 431 (1974)). We have called these challenges "substantive" sentencing challenges. *Cellucci v. Commonwealth*, 77 Va. App. 36, 49 (2023). But as to other sentencing challenges,⁵ "when a decision is discretionary," "the court has a range of choice, and . . . its decision will not be disturbed as long as it stays within that range and is not influenced by any mistake of law." *Lawlor v. Commonwealth*, 285 Va. 187, 212-13 (2013) (quoting *Landrum v. Chippenham & Johnston-Willis Hosps., Inc.*, 282 Va. 346, 352 (2011)). A trial court exceeds its "range of choice" in "three

⁵ We have, at times, referred to these other challenges as "procedural" sentencing challenges, where a defendant alleges that "the sentencing process" was "infected by a statutory or constitutional violation." *Jackson v. Commonwealth*, 86 Va. App. 722, 747 (2026).

principal ways”: 1) “when a relevant factor that should have been given significant weight is not considered”; 2) “when an irrelevant or improper factor is considered and given significant weight”; and 3) “when all proper factors, and no improper ones, are considered, but the court, in weighing those factors, commits a clear error of judgment.” *Id.* (quoting *Landrum*, 282 Va. at 352).

Finally, “[t]he abuse-of-discretion standard includes review to determine that the discretion was not guided by erroneous legal conclusions.” *Porter v. Commonwealth*, 276 Va. 203, 260 (2008) (quoting *Koon v. United States*, 518 U.S. 81, 100 (1996)). This means that “where the issue underlying the imposition of a [sentence] ‘is one of law, and not fact, we do not accord the trial court’s ruling the same weight it would be accorded if reached upon conflicting factual evidence.’” *Oxenham v. Johnson*, 241 Va. 281, 287 (1991) (quoting *Tullidge v. Bd. of Supervisors of Augusta Cnty.*, 239 Va. 611, 614 (1990)).

B. The trial court did not abuse its discretion when it sentenced Hampton.

Hampton contends that the trial court “abused its discretion in sentencing [him].”⁶ In support, Hampton asserts that the trial court erroneously rejected facts that the jury purportedly found at trial, inaccurately stated the burden of proof for self-defense, and improperly weighed mitigating evidence while “in pursuit of its own personal views on Hampton carrying a firearm to defend himself.” For the reasons that follow, we disagree with Hampton and affirm the trial court’s judgment.

⁶ Hampton’s second assignment of error contends that the trial court erred by “denying [his] motion to reconsider sentencing.” While Hampton has two separate assignments of error, his opening brief only contains a single argument section that, while including statements made during the reconsideration hearing, only targets the trial court’s ruling in sentencing Hampton. As such, “we can discern no argument of assignment[] of error [two] . . . within [appellant’s] opening appellate brief. The failure to brief an assignment of error constitutes a waiver of the argument.” *Elliott v. Commonwealth*, 267 Va. 396, 422 (2004); see Rule 5A:20(e). We continue to address his arguments in the context of whether the trial court abused its discretion in sentencing Hampton.

1. The trial court did not rely on facts that the jury necessarily rejected.

Hampton first contends that the trial court considered facts at sentencing “that were rejected by the jury.” In support, he raises the jury’s verdict and its question posed during deliberations as proof that it found he acted in self-defense. That purported finding, according to Hampton, required the trial court to not rely on facts indicating that he instigated the shootout, such as the fact that he arrived at the scene “clutching” his firearm.

When an appellant claims that the sentencing judge specifically misrepresented facts previously found by a jury, an appellant may rely solely upon “[t]he verdict, as finally agreed upon and pronounced in court by the jurors,” and “only those factual findings which, by logical necessity, must have been made for the jury to reach the conclusion it did” to support his contention.

Kennemore v. Commonwealth, 50 Va. App. 703, 708-09 (2007). Any inquiry into juror deliberations or questions sent to the trial court “offers no window into the actual motivations and beliefs of the jurors.” *Barnes v. Commonwealth*, 80 Va. App. 588, 596 n.3 (2024); *see Kennemore*, 50 Va. App. at 709 (holding that a jury’s “question[s] posed to the court during deliberations” are not representative of implicit findings of fact).

Hampton’s argument on this point proceeds from a faulty premise. That the jury acquitted Hampton of involuntary manslaughter does not definitively imply that it accepted his self-defense theory. *Barnes*, 80 Va. App. at 593, 596 n.3 (rejecting appellant’s “mistaken contention that the jury found that he acted in self-defense” when it acquitted him of second-degree murder). In other words, the jury, “by logical *necessity*,” did not need to find that Hampton acted in self-defense “to reach the conclusion it did.” *Kennemore*, 50 Va. App. at 708-09 (emphasis added). Similarly, the jury, “by logical *necessity*,” *id.* (emphasis added), did not have to reject the notion that Hampton was “clutching” his gun in order to acquit him of involuntary manslaughter. As the trial court noted upon reconsideration, the jury instead could simply have found the Commonwealth did not meet its

burden to prove each element of the crime beyond a reasonable doubt. The jury could have also “simply decided to be lenient with [Hampton]” by “convict[ing] him only of the . . . offense[s]” [that] carried a lesser penalty,” which involves no affirmative factfinding at all. *Reed v. Commonwealth*, 239 Va. 594, 597 (1990).

The only way to conclude that the jury either accepted Hampton’s theory of self-defense or that he was not “clutching” his gun while approaching the apartment, without a special verdict form saying as much, is by piercing into the “deliberative safe space” that is the jury room—something that “Virginia is ‘more careful [to avoid] than most states.’” *McQuinn v. Commonwealth*, 298 Va. 456, 460 (2020) (quoting *Reed*, 239 Va. at 598). “In almost every case, especially every case of felony in which the jury is kept together for several days, a plausible ground might be shown for setting aside the verdict” if courts could pierce the jury room, and “the sufficiency” of those grounds “would have to [be] decide[d] according to [the court’s] own discretion,” thereby introducing “painful uncertainty” into “the administration of justice.” *Bull v. Commonwealth*, 55 Va. (14 Gratt.) 613, 632 (1857). And if we *did* permit such invasions, it “would hold out to unsuccessful parties and their friends[] the strongest temptation to tamper with jurors after their discharge[] and would otherwise be productive of the greatest evils.” *Id.* Accordingly, we reject Hampton’s invitation to invade the “inviolability and secrecy of jurors’ deliberations” and, because the jury in this case simply returned verdicts of not guilty, we cannot conclude that the trial court relied on facts that the jury necessarily rejected in sentencing Hampton. *Reed*, 239 Va. at 598 (quoting *Caterpillar Tractor Co. v. Hulvey*, 233 Va. 77, 82 (1987)).

2. The trial court did not abuse its discretion when it made nonprejudicial misstatements of law during sentencing.

Second, Hampton contends that the trial court’s misstatements during sentencing regarding the burden of proof for self-defense illustrate the trial court’s “reliance on . . . incorrect legal

principles or factual findings.” While the trial court made a misstatement during sentencing, it does not constitute reversible error.

“[A]ll trial court rulings come to an appellate court with a presumption of correctness.” *Riggins v. O’Brien*, 263 Va. 444, 448 (2002); *see Mack v. Commonwealth*, 177 Va. 921, 929 (1941) (“All presumptions exist in favor of the regularity of the judgments of courts of general jurisdiction.” (quoting *Salistean v. State*, 215 N.W. 107, 109 (Neb. 1927))). An appellant claiming error by the trial court “is required to overcome the presumption [of correctness] by record proof.” *Mack*, 177 Va. at 929.

Relatedly, “[a]bsent clear evidence to the contrary in the record, the judgment of a trial court comes to us on appeal with a presumption that the law was correctly applied to the facts.” *Yarborough v. Commonwealth*, 217 Va. 971, 978 (1977). But “judges continue to be [human] and do not cast aside all human imperfections when they ascend the bench.” *Via v. Commonwealth*, 42 Va. App. 164, 180 (2004) (alteration in original) (quoting *Moore v. Commonwealth*, 186 Va. 453, 463 (1947)). As such, judges may have “the occasional lapse in the judicial demeanor” by making certain “comments” that “we [cannot] . . . condone.” *Id.* at 182.

However, to warrant reversal, an appellant must specifically “provide meritorious argument that the [statements] were more than harmless misspeak.” *Milam v. Milam*, 65 Va. App. 439, 466-67 (2015) (citing *Yarborough*, 217 Va. at 978). Our Supreme Court has specifically held that a trial court does not commit reversible error when an appellate court “can be satisfied the [decision] was based on a correct application of the law,” “even though an incorrect theory may also have been considered by the court” at the time it rendered its judgment. *Yarborough*, 217 Va. at 979. As such, our Supreme Court has made a crucial observation regarding judges who make inaccurate statements on the record: “No trial is perfect, and error will at times creep in, particularly in hotly

contested cases. [But] [t]o warrant a reversal it must be substantial; otherwise litigation would be interminable.” *Parsons v. Commonwealth*, 154 Va. 832, 852-53 (1930).

An appellant has several options to show that a judge’s statements were not “harmless misspeak.” *Milam*, 65 Va. App. at 467. An appellant may, for example, claim that the judge’s statements were made before a jury and “intimate[d] the bias of the court with respect to the character or weight of the testimony.” *Mazer v. Commonwealth*, 142 Va. 649, 653 (1925) (quoting *Dejarnette v. Commonwealth*, 75 Va. 867, 874 (1881)); *see also Via*, 42 Va. App. at 181. An appellant could also claim that the misstatements, “[v]iewed cumulatively,” amounted to a deprivation of a defendant’s constitutional right to due process of law because the misstatements “undermine[d] confidence in the fairness and impartiality of the . . . proceeding.” *Jackson v. Commonwealth*, 86 Va. App. 722, 753-54 (2026). As Hampton contends here, however, another option is that the judge’s misstatements establish that the trial court simply abused its discretion because its “discretion was . . . guided by [the] erroneous legal conclusion[]” endorsed by the misstatement. *Porter*, 276 Va. at 260 (quoting *Koon*, 518 U.S. at 100); *see Slayton v. Commonwealth*, 185 Va. 357, 367-68 (1946). We may look to numerous proceedings throughout the timeline of a case to assess whether a trial court ultimately abused its discretion when it rendered its final judgment. *Cf. Slayton v. Commonwealth*, 185 Va. 371, 376, 379-81 (1946) (collecting cases where courts reviewed statements by a judge in a prior proceeding to discern whether that judge was biased during the proceeding at issue).

Here, Hampton is correct that the trial court made an incorrect statement of law when it said, “I’m not sure that it was not proven beyond a reasonable doubt that he acted in self-defense.”⁷ The trial court also erroneously stated, during the same exchange as the previous statement, that

⁷ On brief, Hampton does not raise the fact that the trial court also accidentally referred to the involuntary-manslaughter charge as “murder,” so we do not address it here.

“the jury found [Hampton] not guilty beyond a reasonable doubt.” Yet what Hampton fails to show is that the trial court’s “discretion was . . . guided by erroneous legal conclusions,” thereby rendering the judgment an abuse of discretion. *Porter*, 276 Va. at 260 (quoting *Koon*, 518 U.S. at 100).

Taking the trial court’s misstatement in context, as we must, *see Cellucci*, 77 Va. App. at 51, the transcript reflects that the trial court made the inaccurate statement of law when responding to Hampton after he claimed that but-for his bringing a firearm with him to pick up his son, Hampton would have been killed in the shootout. As such, the trial court was responding to a separate point of argument—raised by Hampton himself—and made no connection between the misstatement and imposed sentence. *See Thompson v. Commonwealth*, No. 1161-21-4, slip op. at 5 (Va. Ct. App. July 19, 2022) (affirming a defendant’s sentence when the trial court misspoke during sentencing but “nothing in the record suggest[ed] that the [trial] court imposed a more severe sentence because of the misstatement”).⁸ Additionally, the trial court provided several separate justifications for its sentence *unrelated to self-defense* before entering its judgment. Indeed, the trial court repeatedly stated at the sentencing hearing that it was focused on the nature of the shootout and how it put many innocent bystanders in grave danger, indicating that its “[decision] was based on a correct application of the law.” *Yarborough*, 217 Va. at 979. Moreover, the trial court did not continuously reassert the inaccurate burden of proof throughout the hearing; it stated the inaccuracy twice in a single moment of dialogue, indicating that the consideration was not “given significant weight.” *Lawlor*, 285 Va. at 213 (quoting *Landrum*, 282 Va. at 352). Finally, the trial court repeatedly cited the *correct* burden of proof at both the post-trial bail hearing (e.g., “[T]he jury agreed that [the Commonwealth] didn’t prove beyond a reasonable doubt [that Hampton was

⁸ While not binding, unpublished cases may be cited as persuasive authority. *See* Rule 5A:1(f); *see also Smith v. Commonwealth*, 78 Va. App. 371, 383 n.4 (2023).

guilty], and you and I both know that that's how that goes.”) and the sentencing hearing (e.g., “The standard of beyond a reasonable doubt means that the jury couldn't beyond a reasonable doubt find [Hampton guilty].”). Accurate statements like these indicate that the trial court's sentence, in fact, “was based on a correct application of the law.” *Yarborough*, 217 Va. at 979.

A single misstatement of law does not automatically amount to an abuse of discretion. Treating such a statement as “a doctrinal ‘royal flush,’” *Jones v. Commonwealth*, 293 Va. 29, 46 (2017), does not comport with prior holdings that no reversible error occurs when “we can be satisfied the [decision] was based on a correct application of the law,” “even though an incorrect theory may also have been considered by the court,” *Yarborough*, 217 Va. at 979; *see Milam*, 65 Va. App. at 467. Nor is it consistent with the foundational principle that this Court may “ignore the effect of an erroneous ruling when an error clearly has had no impact upon the verdict or sentence in a case.” *Hackney v. Commonwealth*, 28 Va. App. 288, 296 (1998); *see Rea v. Ford*, 198 Va. 712, 720 (1957) (“It is elementary that in order to constitute reversible error the ruling of the trial court must be material and prejudicial to the interests of the party complaining of it.”). Instead, Hampton needed to show that the trial court's misstatement was not “harmless misspeak.” *Milam*, 65 Va. App. at 467. Hampton's mere identification of the misstatement is insufficient given the context in which the misstatements were made.

Finally, we are assured that the trial court's sentence was not “guided by erroneous legal conclusions” because the court took the time to correct its misstatements and reassess its sentence at a reconsideration hearing. *Porter*, 276 Va. at 260 (quoting *Koon*, 518 U.S. at 100). Our caselaw endorses the general practice that a lower court may correct errors in its final judgment, or even “change its mind,” as long as it still has jurisdiction over the case.⁹ *Robbins v. Robbins*, 48

⁹ There are some limited means by which a trial court can correct non-substantive errors in its judgment even *after* it has become final. *See* Code § 8.01-428(B) (authorizing trial courts to correct “[c]lerical mistakes . . . at any time”).

Va. App. 466, 474 (2006) (quoting *Pinkard v. Pinkard*, 12 Va. App. 848, 853 (1991)); *see, e.g., Commonwealth v. McBride*, 302 Va. 443, 449 (2023) (“One . . . background principle[] is the recognized authority of a court to reconsider an erroneous or flawed decision.”). Courts that undergo self-evaluation while having jurisdiction to do so ought to be celebrated, as “[t]he principles of justice obviously require that what has been done amiss should be set right” while the case remains “in the breast of the judges of the court.” Henry Campbell Black, *Treatise on the Law of Judgments: Including the Doctrine of Res Judicata* § 153 (2d ed. 1902) (quoting 3 Edward Coke, *The First Part of the Institutes of the Lawes of England* § 438 (1628)). Indeed, “the people of the Commonwealth . . . entrust their judges to correctly apply their legal training, experience, and expertise when resolving the questions put to them for decision.” *Sroufe v. Waldron*, 297 Va. 396, 402 (2019). By correcting and reassessing the record while maintaining jurisdiction over a case, trial courts simply apply “the[ir] best efforts, reasoned judgment, and good faith” to render accurate decisions in all respects. *Id.* Hence, the fact that the trial court here retained jurisdiction over the case, identified its own misstatements, and then reassessed its sentence in light of the corrections supports that Hampton’s sentence was not the result of an abuse of discretion.

Under the abuse-of-discretion standard, Hampton was required to identify “clear evidence” in the record, *Yarborough*, 217 Va. at 978, that the trial court was “guided by” its erroneous statement of law—one that it made in the context of responding to the argument of Hampton’s counsel, was not reiterated at any other time in the sentencing hearing, and was set against proper sentencing considerations—when fashioning its sentence, *Porter*, 276 Va. at 260 (quoting *Koon*, 518 U.S. at 100). Not only that, Hampton needed to point to sufficiently clear evidence so “reasonable jurists *could not differ*,” *Khine*, 82 Va. App. at 558 (emphasis added) (quoting *Swann*, 290 Va. at 197), that the trial court was “guided by” its erroneous legal statement when sentencing Hampton, *Porter*, 276 Va. at 260 (quoting *Koon*, 518 U.S. at 100). Hampton failed to do so.

Therefore, the trial court did not abuse its discretion when it made its mere “harmless misspeak.”

Milam, 65 Va. App. at 467; *see Yarborough*, 217 Va. at 979.

3. The trial court did not improperly weigh mitigating evidence when it sentenced Hampton.

Hampton’s final assertion is that the trial court failed to properly weigh mitigating evidence during the sentencing hearing. Hampton specifically contends that the trial court “did not properly review the facts” when sentencing Hampton and that its remarks at the post-trial bail hearing and during sentencing illustrated that it “was more focused on penalizing Hampton” by being in “pursuit of its own personal views on Hampton carrying a firearm to defend himself.”¹⁰

Trial courts “ha[ve] a duty to consider mitigating evidence along with other evidence in determining the appropriate sentence.” *Reid v. Commonwealth*, 256 Va. 561, 569 (1998). During sentencing, mitigating evidence is ordinarily weighed against evidence illustrating the “nature of the offense, the defendant’s background, and the surrounding circumstances.” *Minh Duy Du*, 292 Va. at 563. “If a trial court does not find mitigation evidence compelling when weighed against other evidence in the case, it is ‘not required to give controlling effect to’ that evidence.” *Stambler v. Commonwealth*, 88 Va. App. 198, 221 (2026) (quoting *Sheets v. Commonwealth*, 80 Va. App. 706, 718 (2024)). Additionally, “[b]arring clear evidence to the contrary, this Court will not

¹⁰ We asked both parties at oral argument about this Court’s holding in *Jackson v. Commonwealth*, 86 Va. App. 722, and how it affects this case. This Court in *Jackson*—which was decided after Hampton filed his opening brief—held that a sentencing-judge’s remarks can, under specific circumstances, “undermine[] the constitutional due process guarantee of a neutral and detached arbitrator.” 86 Va. App. at 754-55. Hampton, however, continued to focus the inquiry at oral argument on whether the trial court abused its discretion and not on whether the trial court committed a due-process violation. Even if Hampton wished to pursue a due-process argument, he did not comply with Rule 5A:18 because he never raised a due-process argument before the trial court, nor did he assert either exception to Rule 5A:18 in his opening brief. *See Swanson v. Commonwealth*, 56 Va. App. 147, 157 n.7 (2010) (“Appellant did not make . . . any due process argument[] to the trial court[] and, therefore, th[at] argument is procedurally defaulted.”); *see also Edwards v. Commonwealth*, 41 Va. App. 752, 761 (2003) (en banc) (stating that this Court “will not consider” either exception to Rule 5A:18 “sua sponte” (emphasis omitted)). We therefore do not analyze whether the trial court’s remarks here amounted to a due-process violation.

presume that a trial court purposefully ignored mitigating factors in blind pursuit of a harsh sentence.” *Bassett v. Commonwealth*, 13 Va. App. 580, 584 (1992).

Here, Hampton did express remorse and apologized to Hawkins’s family during allocution, even though the jury acquitted him of any responsibility for his death. But the trial court was not required to “find such evidence compelling when weighed against other evidence.” *Guest v. Commonwealth*, 78 Va. App. 187, 197 (2023). In this case, that “other evidence,” *id.*, illustrated that Hampton armed himself, approached Hawkins’s apartment, and engaged in a shootout in broad daylight. There were innocent bystanders, including children, who were at risk of being shot. Hampton had an extensive criminal record and was a convicted felon who was barred from possessing a firearm, despite his subjective reason for carrying one. He then fled the scene and did not report the shooting to law enforcement, failing to turn himself in for over four months. Further, although the jury acquitted Hampton of any crime involving malice, it still convicted him of two felonies and a misdemeanor—crimes that carry the potential for, in total, up to 10 years and 12 months of active incarceration. *See* Code §§ 18.2-56.1(A), -279, -308.2(A). Hence, there was ample evidence weighing against the mitigating evidence present in this case.

Moreover, contrary to Hampton’s assertion, the record indicates that the trial court *did* consider mitigation evidence. The trial court expressly considered the fact that he was acquitted on several charges as mitigating, noting that “[i]t would be wrong . . . to sentence [Hampton] to 11 years when a jury of his peers” rejected several of the charged crimes. The trial court also recognized that a contributing factor as to why Hampton was armed at the apartment was that Anglin called him saying Hawkins had “threatened” his son. However, even with the trial court explicitly considering these mitigating facts, it still was not required to “find such evidence compelling when weighed against” evidence of the circumstances supporting his conviction. *Guest*, 78 Va. App. at 197. Nor was it even required to list out which mitigating factors it found

to be compelling or unpersuasive. See *Bowman v. Commonwealth*, 290 Va. 492, 500 (2015) (“Absent a statutory requirement to do so, ‘a trial court is not required to give findings of fact and conclusions of law.’” (quoting *Fitzgerald v. Commonwealth*, 223 Va. 615, 627 (1982))); see *Bassett*, 13 Va. App. at 584. These considerations further undercut Hampton’s argument.

Finally, the trial court’s statements regarding felon-in-possession charges and the facts surrounding the shootout fail to establish “clear evidence” that it acted “in blind pursuit of a harsh sentence.” *Bassett*, 13 Va. App. at 584. True, the trial court at the post-trial bail hearing stated, “I despise these felons with convictions in possession of a firearm cases.”¹¹ Nonetheless, the trial court elsewhere at the post-trial bail hearing still emphasized its focus was on facts the jury found in finding Hampton guilty of the felon-in-possession charge, which included the fact that Hampton unlawfully possessed a firearm. The trial court, in fashioning its sentence, also continuously reiterated at the sentencing hearing that its decision was based on Hampton’s conduct and the danger it posed to neighbors and children at the apartment complex. Additionally, even with its statement about the charge, the trial court imposed *less* active time for Hampton’s felon-in-possession conviction than his unlawfully discharging a firearm at an

¹¹ The trial court did clarify at the reconsideration hearing that this remark was “really let[ting] the Commonwealth know [it] ha[d] no idea why . . . the[] [Commonwealth] constantly break[s] these [charges] down.” But the context of the remark during the post-trial bail hearing renders that clarification somewhat curious. Recall that the trial court stated:

I am going to tell you, Mr. Hampton, I think you may just be in the position of being unlucky enough to have maybe the wrong judge. I despise these felons with convictions in possession of a firearm cases. I do, because this is what’s happening on our streets.

It is unclear to this Court how the trial court was “really” referring to the Commonwealth when, at the beginning of its remarks, the trial court expressly addressed its statements to “Mr. Hampton.” The trial court’s explanation further conflicts with the trial court’s statement because the statement seems targeted at the conduct underlying the charge (i.e., unlawfully possessing a firearm) and not the Commonwealth’s prosecutorial decisions. However, as we explain below, we still conclude that the trial court still did not abuse its discretion when it sentenced Hampton.

occupied dwelling conviction—indicating that the trial court was not acting in accordance with any purported animus about felon-in-possession charges. Indeed, there is no evidence that the trial court’s remark—which was made at an entirely separate hearing—bore any connection to the trial court’s ultimate sentence. Hence, taken together, “reasonable jurists could . . . differ,” *Khine*, 82 Va. App. at 558 (quoting *Swann*, 290 Va. at 197), in assessing whether the trial court’s remark constituted “clear evidence,” *Bassett*, 13 Va. App. at 584, supporting Hampton’s allegation that the trial court sentenced him “in pursuit of its own personal views on Hampton carrying a firearm to defend himself.”

Moreover, while the trial court used strong language in expressing its frustration toward Hampton and his conduct, using such language does not, by itself, amount to an abuse of discretion. *See Jackson*, 86 Va. App. at 746 (“A judge’s expressions of concern about community violence, victim impact, and public safety are not, on their own, improper.”). Under the abuse-of-discretion standard, “the court has a range of choice” in how it exercises its discretion. *Lawlor*, 285 Va. at 212-13. One of those discretionary choices is a judge’s choice of words while sentencing a defendant. And our Supreme Court has previously highlighted that, in certain situations, “it is neither surprising nor inappropriate that the record contains emotional language” during a sentencing determination.¹² *Prieto v. Commonwealth*, 283 Va. 149, 165 (2012). Hence, we cannot conclude that describing a defendant’s conduct in harsh terms is beyond the “range of choice,” *Lawlor*, 285 Va. at 212-13, afforded to trial courts when sentencing a defendant—unless there is “clear evidence,” *Bassett*, 13 Va. App. at 584, that its statements were so severe that “reasonable jurists *could not differ*” in their infirmity, *Khine*, 82 Va. App. at 558 (emphasis added) (quoting

¹² However, “in some cases, saying too much is as detrimental as saying too little.” *Pilati v. Pilati*, 59 Va. App. 176, 181 (2011). “The correct balance depends on the unique context of each case, the informative value of an explanation, and the possibility of inflaming an interminable dispute with an overly detailed explanation.” *Id.*

Swann, 290 Va. at 197). And here, Hampton fails to make that showing. Thus, we cannot conclude that the trial court abused its discretion in its use of language in describing Hampton’s conduct and its impact. *See Prieto*, 283 Va. at 165 (“It is not required nor desired that judges of the Commonwealth possess the ability to utterly set aside all human emotion while discharging their duties.”); *cf. Slayton*, 185 Va. 357, 368 (“That a court . . . severely criticizes the testimony of a witness which it rejects[] does not show that its conclusion was actuated by bias or prejudice.”).

Therefore, the trial court properly fulfilled its “duty to consider mitigating evidence along with other evidence in determining the appropriate sentence, *Reid*, 256 Va. at 569, and Hampton failed to adduce “clear evidence” that the trial court improperly weighed mitigation evidence or that the court was “in blind pursuit of a harsh sentence,” *Bassett*, 13 Va. App. at 584. We are thus compelled to hold that the trial court did not abuse its discretion.

III. CONCLUSION

“Criminal sentencing decisions are among the most difficult judgment calls trial judges face.” *Minh Duy Du*, 292 Va. at 563. That being said, “[i]t is true that trial judges in this State do not enjoy that freedom of action sometimes elsewhere accorded.” *Nelson v. Commonwealth*, 153 Va. 909, 920 (1929). “[B]ut in Virginia they are something more than moderators” and can, at times, make remarks from the bench during sentencing, even if those remarks include insignificant, nonprejudicial misstatements. *Id.*

In this case, the trial court did what it was entitled to do: consider the “nature of the offense, the defendant’s background, and the surrounding circumstances,” *Minh Duy Du*, 292 Va. at 563, balance those considerations against “any mitigating factors presented by the defendant,” *Khine*, 82 Va. App. at 558 (quoting *Keselica v. Commonwealth*, 34 Va. App. 31, 36 (2000)), and not give an “irrelevant or improper factor . . . significant weight” or make “a clear error of judgment,” *Lawlor*, 285 Va. at 213 (quoting *Landrum*, 282 Va. at 352). It did so even

while making limited misstatements of law that the record illustrates did not influence the ultimate sentence. *See Parsons*, 154 Va. at 852. Hampton thus has not sufficiently identified “clear evidence” in the record, *Yarborough*, 217 Va. at 978, to overcome the “presumption of correctness” the trial court’s ruling has on appeal, *Riggins*, 263 Va. at 448. Therefore, because the trial court did not abuse its discretion during sentencing, we affirm its judgment.

Affirmed.