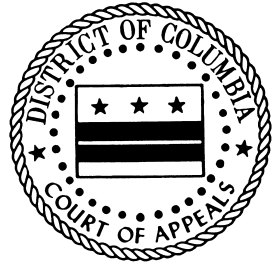


DISTRICT OF COLUMBIA
COURT OF APPEALS

No. 24-CO-294



Clerk of the Court
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GOLDIE DOBIE,

Appellant,

v.

UNITED STATES OF AMERICA,

Appellee.

MOTION FOR SUMMARY AFFIRMANCE

Pursuant to D.C. App. R. 27(c), appellee, the United States of America, hereby opposes appellant Goldie Dobie’s motion for summary reversal and cross-moves for summary affirmance of the March 6, 2024, order denying Dobie’s motion for a sentence reduction pursuant to the Incarceration Reduction Amendment Act (IRAA) (A. 4 (IRAA Order)). The trial court reasonably concluded that Dobie failed to establish, as required by D.C. Code § 24-403.03, that he was no longer dangerous and that his early release was in the interests of justice. This Court should summarily affirm because “the basic facts are both uncomplicated and undisputed . . . and . . . the trial court’s ruling rests on a narrow and clear-cut issue of law.” *Oliver T. Carr Mgmt. v. National Delicatessen, Inc.*, 397 A.2d 914, 915 (D.C. 1979); *accord Watson v. United States*, 73 A.3d 130, 131 (D.C. 2013).

Background

On October 2, 2002, after a jury trial before the Honorable Patricia A. Broderick, appellant Goldie Dobie was found guilty of Assault with Intent to Kill While Armed (D.C. Code §§ 22-501, -3202), two counts of Mayhem While Armed (D.C. Code § 22-50), two counts of Aggravated Assault While Armed (D.C. Code §§ 22-504.1(a), -3202), two counts of Possession of a Firearm

During a Crime of Violence (D.C. Code § 22-3204(b)), Carrying a Pistol Without a License (D.C. Code § 22-3204(a)(1)), Possession of an Unregistered Firearm (D.C. Code § 6-2376), and Unlawful Possession of Ammunition (D.C. Code § 6-2376), all committed when Dobie was 18 years old (Judgment & Commitment Order).¹ On February 21, 2003, Judge Broderick sentenced Dobie to an aggregate term of 30 years of incarceration and five years of supervised release (*id.*). This Court affirmed the convictions on direct appeal. *Dobie v. United States*, Nos. 03-CF-324 & 04-CF-1326, Mem. Op. & Judgment (“Direct Appeal MOJ”) (Nov. 3, 2009).

On November 14, 2016, Dobie filed a motion to vacate and set aside his convictions pursuant to the Innocence Protection Act (IPA), D.C. Code §§ 22-4131, -4135 (IPA Motion). After an evidentiary hearing on April 10, 2018, Judge Broderick denied the IPA motion in a written order on May 25, 2018 (IPA Order). This Court affirmed the denial of the IPA motion. *Dobie v. United States*, No. 18-CO-680, Mem. Op. & Judgment (“IPA MOJ”) (Apr. 23, 2020).

On May 30, 2023, after serving 21 years of his sentence, Dobie filed a motion for a sentence reduction pursuant to the Incarceration Reduction Amendment Act (IRAA), D.C. Code § 24-403.03 (R. 57 (Motion)). The government opposed the IRAA motion on August 24, 2023 (R. 104 (Opposition)), and Dobie replied to the government’s opposition on September 20, 2023 (R. 358 (Reply)). On October 27, 2023, the Honorable Jennifer M. Anderson presided over a motions hearing and heard a statement from Dobie. On November 2, 2023, Dobie filed a supplement to his motion (R. 385 (Supplement)). On March 6, 2024, Judge Anderson denied the IRAA motion in a written order (A. 4 (IRAA Order)). On March 26, 2024, Dobie filed a timely notice of appeal (R. 425 (Notice of Appeal)).

¹ The government will move to supplement the record with copies of the relevant orders to which we refer in this pleading.

Summary of the Evidence

In the direct appeal, this Court summarized the evidence at trial as follows:

On September 8, 2000, Mallie Scott, Damon McQuarters, and Jovan Jackson were parked on the 3300 block of 11th Street N.W., when they were approached by three men. Scott knew these men as Dobie, Nook (“Jones”), and Kareem. While the conversation started friendly, at some point it took a sour turn when Jones told the occupants, “Why you keep riding through my block?” The conversation was interrupted when a station wagon stopped next to the parked car. Dobie, Jones, and Kareem exchanged “what’s up” with the station wagon and brandished guns kept in the waistband of their pants. Sensing danger, Scott tried to exit the parking spot by making a U-turn. According to Scott, Jones then turned to Dobie and stated, “Go ahead what you’re gonna do.” Immediately, Dobie, Jones, and Kareem began to shoot into the car. Jackson, upon hearing the first gunshot, escaped unharmed from the vehicle.

Between four to eight minutes’ later, Metropolitan Police Department Patrol Officer Gary Shrawder came to 11th Street and observed that McQuarters and Scott were both suffering from gunshot wounds. When he asked what happened, Scott responded, “Goldie Dobie shot me.” Both Scott and McQuarters were transported to the Washington Hospital Center for treatment. Within two weeks of the shooting, McQuarters identified both Dobie and Jones as the shooters.

Direct Appeal MOJ at 2.

In a collateral appeal of the court’s denial of Dobie’s IPA motion, this Court repeated the above summary of facts and added:

The evidence at [Dobie’s] September 2002 trial also included testimony by Mr. McQuarters that after [Dobie], Jones and Kareem approached the parked vehicle, Scott told Mr. McQuarters, “That’s Goldie. That’s Goldie[,]” as well as testimony by Mr. Jackson that, while he never looked at the three men who approached the car and thus could not say who they were, he heard Scott identify one of the men approaching the car as “Goldie.”

IPA MOJ at 2-3.

The IPA Proceedings

Dobie's IPA Motion

In support of his IPA motion, Dobie submitted an affidavit asserting that he was “actually innocent” of his crimes of conviction and “did not shoot or otherwise assault . . . Scott or anyone else on September 8, 2000 or at any other time” (IPA Motion, Affidavit at ¶ 4). He also submitted a video-taped and transcribed deposition conducted on October 3, 2016, in which Scott recanted his identification of Dobie as his shooter (IPA Motion, 10/3/16 Dep. Tr. 7). In the deposition, Scott testified that he “couldn’t tell” who the people were who approached his car and that he did not see who shot him (*id.*). He also testified that when two MPD detectives visited him in the hospital and at his grandmother’s home, they threatened to charge him with drug offenses if he did not identify Dobie as the one who shot him; he nonetheless claimed that he told detectives Dobie “wasn’t the man who shot [him]” (*id.* at 8-12, 14-18). Scott further testified that, after showing him a letter threatening to burn his grandmother’s house down if he testified, police placed him in protective custody at an extended-stay motel pending trial, gave him \$1500, and made him sign an immunity letter agreeing to dismiss or not pursue cocaine charges against him if he testified that Dobie shot him (*id.* at 21-26, 28-30).

The Trial Court's IPA Decision

In a written order denying Dobie’s IPA motion, Judge Broderick did not credit Scott’s recantation of his identification of Dobie, which she found “suspicious,” “brim[ming] with inconsistencies[,] and lack[ing] corroboration” (IPA Order at 1, 7). Despite Scott’s claim that “he did not identify the defendant as the shooter until trial,” Scott “identified [Dobie] at least three times prior to trial,” i.e., to McQuarters before the shooting, to an MPD officer on scene, and to the grand jury (*id.* at 7-8). Judge Broderick emphasized Scott’s “remarkable” demeanor during his

deposition and hearing testimony: he was “sweating profusely,” “fidgeted rather nervously,” and “appeared inauthentic, nervous, and forced” (*id.* at 8). His “sweatiness, body language, and unconvincing recantation” made it “plain” to Judge Broderick that he “did not want to be at the hearing” (*id.* at 8-9). Moreover, there was “no evidence that corroborate[d]” Scott’s recantation, and there was significant witness testimony and forensic evidence that corroborated his trial testimony (*id.* at 9). Accordingly, Judge Broderick denied Dobie’s IPA motion, and that denial was affirmed by this Court on appeal.

The IRAA Proceedings

On May 30, 2023, Dobie moved for relief under the Incarceration Reduction Amendment Act (IRAA) (R. 57 (Motion)). The government opposed Dobie’s request for a reduced sentence, arguing he “ha[d] not shown that he [wa]s no longer a danger to a person or to the community and that the interests of justice warrant[ed] a sentence reduction” (R. 104 (Opposition)).

The Trial Court’s Decision

On March 6, 2024, the court denied Dobie’s motion for IRAA relief in a written order (A. 4 (IRAA Order)). The court found that Dobie met the threshold requirements for IRAA relief given that he was 18 years old at the time of the crime and had served approximately 21 years of his sentence (*id.* at 12). The court then examined the required statutory factors:

Under § 24-403.03(c)(1) (age), the court noted that Dobie was 18 years old at the time of the offense (A. 12 (IRAA Order)).

Under § 24-403.03(c)(2) (history and characteristics of the defendant), the court indicated that, despite Dobie’s contentions that his childhood was “unstable,” he “painted a completely different picture of his childhood when interviewed for the Presentence Report,” in which he

described himself as “spoiled” (A. 12-13 (IRAA Order)).² The court discussed [REDACTED]
[REDACTED]. The court also evaluated Dobie’s adult criminal history prior to this offense: a conviction for Contempt in 1999 FEL 7783; a charge for Possession of Marijuana in 2000 CMD 355 just two months after he was released on the Contempt conviction; and a conviction for Reckless Endangerment in Maryland four months later (for which he “downplay[ed] his role” when talking to the Presentence Report writer) (*id.* at 14 and n.6). The court also mentioned that “[o]ver a brief period,” Dobie was charged in three violent-crime cases with Armed Robbery (1998 FEL 4702), First-Degree Murder While Armed (1998 FEL 683), and Aggravated Assault (1999 FEL 7776), which the government ultimately dismissed (*id.* at 14 n.4). [REDACTED]
[REDACTED]
[REDACTED]

Under § 24-403.03(c)(3) (compliance with prison rules and completion of programming), the court expressed “concerns” with “some of [Dobie’s] more recent infractions” while incarcerated (A. 15 (IRAA Order)). Although over half of the infractions occurred before Dobie was 25 years old, Dobie had incurred infractions after 2015 for possessing unauthorized items,⁴

² [REDACTED]
[REDACTED]

³ [REDACTED]
[REDACTED]

⁴ Regarding Dobie’s possession of an unauthorized cell phone, the court rejected Dobie’s mitigating argument that his conduct would not be considered illegal in the community, explaining

possessing or using drugs or alcohol, and disruptive conduct (*id.* at 15-16). Regarding Dobie's drug-treatment program, the court questioned a treatment specialist's letter contending Dobie would live "free of substance abuse," because the letter was "not current," and Dobie had recently been sanctioned for using drugs or alcohol (*id.* at 17). The court noted the role that drug use played in Dobie's prior criminal behavior and highlighted BOP's negative assessment of Dobie's living skills and risk for drug and alcohol abuse (*id.*). While recognizing Dobie's employment in prison, the court emphasized that Dobie had completed "limited" programming and had not made a real effort to pursue a GED (*id.* at 17-18 and n.8).

Under § 24-403.03(c)(4) (government's position), the court noted the government's opposition to IRAA relief for Dobie. Although the government had stated that this case presented a "close question," the court explained that [REDACTED]

[REDACTED]

[REDACTED] (A. 18-19 (IRAA Order)).

Under § 24-403.03(c)(5) (maturity and rehabilitation), Dobie's "significant criminal history and lack of programming g[a]ve the [c]ourt pause" (A. 19 (IRAA Order)). Additionally, the court was "troubled" by Dobie's "more recent choice" to submit a false affidavit and false deposition in support of his IPA motion (*id.*). Scott testified at an evidentiary hearing on the IPA motion that he had not identified Dobie as the shooter until trial, which Judge Broderick "did not find . . . credible because Mr. Scott had, in fact, identified [Dobie] three different times prior to trial" (*id.*). Moreover, the trial court considered Judge Broderick's observation that Scott's testimony was "inauthentic, nervous, and forced" (*id.* at 20). Although the court was "not requiring

that he was "not in the community" and that illegal contraband in prison posed a serious security risk (A. 16 (IRAA Order)).

[Dobie] to accept responsibility or express remorse,” the court could not “overlook the filing of the IPA petition which clearly was false,” and the fact that Dobie “knowingly suborned perjury” at 36 years old (*id.* at 21).

Under § 24-403.03(c)(6) (victim’s position), the court found that Scott’s statement in support of Dobie’s release weighed in his favor (A. 22 (IRAA Order)).

Under § 24-403.03(c)(7) (medical and psychiatric evaluations), the court noted that Dobie was listed at Care Level 1 for healthy or simple chronic care (A. 22 (IRAA Order)).

Under § 24-403.03(c)(8) (defendant’s family and community circumstances at the time of offense), the court found that although Dobie “grew up in a violent neighborhood, it does not appear that [he] suffered abuse or trauma at the hands of his family or others” (A. 23 (IRAA Order)).

Under § 24-403.03(c)(9) (defendant’s role in offense and any other’s influence), the court discussed that Dobie was “one of three people who accosted the victims, seemingly unprovoked” (A. 23 (IRAA Order)).

Under § 24-403.03(c)(10) (diminished youth culpability), the court considered the “significant evidence . . . that youthful offenders have diminished capacity to understand the full significance of their poor decisions, are more susceptible to peer pressure, and are more impulsive” (A. 23 (IRAA Order)). Crediting that individuals tend to “age out of criminal behavior,” the court explained that Dobie committed the crimes at 18 years old and was now 42 years old (*id.*).

Under § 24-403.03(c)(11) (any other relevant information), the court also discussed Dobie’s reentry plan, questioning whether his offer to work in a home-repair company was “the best first job” given that he would have access to customers’ homes and that he had no training in that field (A. 24 (IRAA Order)). The court noted Dobie’s support systems, including his mother

and grandmother, while pointing out that “these are the same people that were in [Dobie’s] life before and whom he claims added to his instability” (*id.*).

Ultimately, the court concluded that Dobie “ha[d] not established that he [wa]s no longer a danger to the community” (A. 24 (IRAA Order)). Although there were factors in his favor, Dobie had [REDACTED] (*id.* at 24-25). His path outside of prison would be “challenging,” and he had not equipped himself with the tools to “prepare himself for that challenge,” such as pursuing his GED or taking advantage of programming (*id.* at 25). His “lack of programming and his continued propensity to disobey rules” presented “concern that he will fall into familiar, negative patterns upon reentry” (*id.*).

Addressing the interests-of-justice analysis, the court considered Dobie’s submission of a demonstrably false IPA motion, where he “not only perjured himself” and “suborned the perjury of an additional witness,” but also pursued an appeal after Judge Broderick discredited the testimony Dobie presented (A. 26-27 (IRAA Order)). The court reasoned that “such deliberate, and recent, choices cannot be ignored, and preclude a finding that [his] early release [wa]s in the interests of justice” (*id.* at 28).

I. The Trial Court Did Not Abuse Its Discretion in Denying Dobie’s IRAA Motion.

A. Standard of Review and Applicable Legal Principles

The IRAA “establishe[d] a sentence review procedure intended to . . . ensur[e] that all juvenile offenders serving lengthy prison terms have a realistic, meaningful opportunity to obtain release based on their diminished culpability and their maturation and rehabilitation.” *Williams v. United States*, 205 A.3d 837, 846 (D.C. 2019). Defendants bear the burden to establish by a preponderance of the evidence that they are “not a danger to the safety of any person or the community and that the interests of justice warrant a sentence modification.”

D.C. Code § 24-403.03(a)(2); *Williams*, 205 A.3d at 850; *see generally Bailey v. United States*, 251 A.3d 724, 729 (D.C. 2021) (“the preponderance standard is the ‘default rule’”).

“The [trial] judge is obligated to accord the prisoner a fair hearing and to make findings and conclusions supported by the record with respect to the pertinent factors enumerated in the IRAA.” *Williams*, 205 A.3d at 854. To be eligible for a sentence reduction under the IRAA, as amended in 2021, the defendant must have: (1) committed his crime before his 25th birthday; (2) been sentenced pursuant to D.C. Code §§ 24-403 or 24-403.01 (i.e., received either an indeterminate or a term-of-years sentence, respectively), or been “committed” pursuant to D.C. Code § 24-903 (i.e., received a Youth Rehabilitation Act sentence); and (3) served at least 15 years in prison. D.C. Code §§ 24-403.03(a), (b). If the defendant meets those threshold requirements, the trial court shall reduce the “term of imprisonment imposed” if the court also determines, after considering the factors in subsection (c), “that the defendant is not a danger to the safety of any person or the community and that the interests of justice warrant a sentence modification.” D.C. Code §§ 24-403.03(a), (a)(2).

Under subsection (c) of the IRAA, the trial court must consider:

- (1) The defendant’s age at the time of the offense;
- (2) The history and characteristics of the defendant;
- (3) Whether the defendant has substantially complied with the rules of the institution to which the defendant has been confined, and whether the defendant has completed any educational, vocational, or other program, where available;
- (4) Any report or recommendation received from the United States Attorney;
- (5) Whether the defendant has demonstrated maturity, rehabilitation, and a fitness to reenter society sufficient to justify a sentence reduction;
- (6) Any statement, provided orally or in writing, provided pursuant to [D.C. Code] § 23-1904 or 18 U.S.C. § 3771 by a victim of the offense for which the defendant is imprisoned, or by a family member of the victim if the victim is deceased;

(7) Any reports of physical, mental, or psychiatric examinations of the defendant conducted by licensed health care professionals;

(8) The defendant's family and community circumstances at the time of the offense, including any history of abuse, trauma, or involvement in the child welfare system;

(9) The extent of the defendant's role in the offense and whether and to what extent another person was involved in the offense;

(10) The diminished culpability of juveniles and persons under age 25, as compared to that of older adults, and the hallmark features of youth, including immaturity, impetuosity, and failure to appreciate risks and consequences, which counsel against sentencing them to lengthy terms in prison, despite the brutality or cold-blooded nature of any particular crime, and the defendant's personal circumstances that support an aging out of crime; and

(11) Any other information the court deems relevant to its decision.

D.C. Code § 24-403.03(c).

The trial court is afforded discretion in deciding how to balance these factors; they do not have "preordained weights assigned to them." *Williams*, 205 A.3d at 854. *See also Johnson v. United States*, 398 A.2d 354, 362 (D.C. 1979) (review of trial court's exercise of discretion is deferential and appellate court "does not render its own decision of what judgment is most wise under the circumstances presented").

B. Because the Trial Court Reasonably Evaluated the Relevant IRAA Criteria, Dobie Cannot Show an Abuse of Discretion.

In determining that Dobie had not met his burden to show non-dangerousness, the trial court conducted a thorough review of the evidence, methodically evaluated each of the IRAA factors, and considered both Dobie's and the government's arguments. Based upon the totality of circumstances, the trial court reasonably denied Dobie's IRAA request.

The court weighed multiple factors in Dobie's favor. Specifically, the court noted that Dobie was 18 years old when he committed the offense, that one of the two victims supported his release, and that "youthful offenders have diminished capacity to understand the full significance

of their poor decisions” and “tend to ‘age out’ of criminal behavior” (A. 12, 22, 23 (IRAA Order)). The court also considered that Dobie claimed to have had an unstable childhood where he was exposed to significant drug use, committed over half of his disciplinary infractions during the earlier years of his incarceration, had completed rehabilitative drug education, and had maintained employment while incarcerated (*id.* at 12-13, 15, 16, 17).

Other factors weighed against Dobie’s release, however. [REDACTED]

[REDACTED] (A. 13-17 (IRAA Order)).

Dobie’s disciplinary record in BOP custody included two violent infractions and more recent infractions involved drugs and alcohol (*id.*). The trial court found Dobie’s recent drug use particularly concerning because [REDACTED]

[REDACTED] (*id.* at 17). Moreover, the court expressed concern with Dobie’s “limited” amount of total education and programming: he had not made significant efforts to obtain his GED, and BOP had identified a need for more programming related to anger/hostility, anti-social peers, education, finance/poverty, substance abuse, and trauma (*id.* at 17-18). Furthermore, the court was “troubled by” Dobie’s role in securing a false recantation from the victim in support of an IPA motion and “what those choices say in terms of maturity and/or rehabilitation” (*id.* at 19). Given Dobie’s “lack of programming and his continued propensity to disobey rules,” the court feared that Dobie would “fall into familiar, negative patterns upon reentry” (*id.* at 25). For these reasons, the court could not find that Dobie was “no longer a danger to the community” (*id.* at 24-25).

The court thus acted within its discretion when it denied Dobie’s motion. The court reasonably evaluated Dobie’s “unique characteristics, degree of culpability, and prospects for reformation” as required by the IRAA and “ma[d]e findings and conclusions supported by the record.” *Williams*, 205 A.3d at 854. “And although another factfinder might view” Dobie’s IRAA

claim “less harshly than the trial court did here, the court ha[d] the ability to choose from a range of permissible conclusions, and did so.” *Welch v. United States*, 319 A.3d 971, 976 (D.C. 2024) (citation and internal quotation omitted). Dobie’s disagreement with the trial court’s weighing and balancing of the IRAA factors (Br. at 19-20) is not a reason for reversal or remand by this Court. *See United States v. Chambliss*, 948 F.3d 691, 694 (5th Cir. 2020) (that a defendant “disagree[s] with how the [trial] court balanced the [relevant] factors, . . . is not a sufficient ground for reversal”). “[S]o long as the evidence provides sufficient support for the trial court’s order, [this Court] will not substitute [its] judgment of a defendant’s dangerousness for that of the judge who heard the evidence.” *Blackson v. United States*, 897 A.2d 187, 194 (D.C. 2006).

1. The Trial Court Properly Considered Dobie’s [REDACTED]

Dobie complains (at 1, 12-18) that the court abused its discretion by denying release “based largely” on [REDACTED]. His claim is meritless.

To begin, Dobie overstates the court’s reliance on [REDACTED] when he contends it was “the primary reason” (Br. at 2, 13) for denying relief. To the contrary, the court cited numerous interrelated factors weighing against a finding that Dobie was no longer dangerous to the community: [REDACTED], “his continued propensity to disobey rules” while incarcerated, his lack of programming, his lack of effort to obtain his GED, and his continued pursuit of a false IPA motion (A. 24-25 (IRAA Order)). Because Dobie continued to disobey rules while incarcerated and “made very little effort to prepare himself” for a “challenging” “path on the outside,” the court was understandably concerned that he would “fall into familiar, negative patterns upon reentry” (*id.* at 25). Based upon all these factors, the court could not “conclude that [Dobie] no longer pose[d] a danger to the community” (*id.*).

In any case, even if [REDACTED] had been the “primary reason” for denying relief, this Court will not lightly override the trial court’s weighing of the IRAA factors under an abuse-of-discretion standard. This Court’s “role in reviewing the exercise of discretion is supervisory in nature and deferential in attitude.” *Bishop v. United States*, 310 A.3d 629, 641 (D.C. 2024) (quoting *In re Z.W.*, 214 A.3d 1023, 1037 (D.C. 2019)). To prevail under an abuse-of-discretion standard, Dobie must show that “the decision maker failed to consider a relevant factor,” “relied upon an improper factor,” or that the reasons given do not reasonably support the conclusion. *Id.* (quoting *Crater v. Oliver*, 201 A.3d 582, 584 (D.C. 2019)). Dobie cannot clear that hurdle.

Dobie mistakenly argues that [REDACTED] is an “impermissible” consideration and “cannot be used to deny release” (Br. at 12, 14). The text of the IRAA explicitly requires consideration of a defendant’s “history and characteristics,” his demonstration of “maturity, rehabilitation, and a fitness to reenter society,” and his “role in the offense.” D.C. Code §§ 24-403.03(c)(2), (c)(5), (c)(9). These factors necessarily require the trial court to examine the defendant’s entire behavioral and criminal history. Here, the court considered [REDACTED] [REDACTED] (A. 13-15 (IRAA Order)).

The IRAA also invites the court to consider “[a]ny other information the court deems relevant to its decision.” D.C. Code § 24-403.03(c)(11). [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

2. The Trial Court Reasonably Considered Dobie's Filing of a False IPA Motion.

Dobie also argues (at 18-19) that the court improperly “assum[ed] that he committed and suborned perjury” and “legally err[ed]” in relying on his “decision to maintain his innocence.” He is wrong on both claims.

Dobie fails to establish the trial court clearly erred in finding that he committed and suborned perjury. As the appealing party, Dobie has the burden to establish error, *see Arnold v. United States*, 436 A.2d 1302, 1303 (D.C. 1981), and this Court “accept[s] the factual findings of the trial court unless they are clearly erroneous,” *Tann v. United States*, 127 A.3d 400, 465 (D.C. 2015). The trial court’s factual finding that Dobie “knowingly suborned perjury” was supported by the record and not clear error. Dobie not only submitted a notarized affidavit stating that he was actually innocent of the crimes, but also “attached a deposition transcript in which Mr. Scott recanted his trial testimony identifying [Dobie] as one of the shooters” (A. 19 (IRAA Order); see also IPA Motion). Scott testified that he had not identified Dobie as the shooter until trial, despite evidence that Scott “had, in fact, identified [Dobie] three different times prior to trial” (A. 19 (IRAA Order) (citing IPA Order at 7-8)). Judge Broderick found that there was “much that corroborated Mr. Scott’s trial testimony,” including that “[m]ultiple people testified about Mr. Scott’s earlier identifications of [Dobie] who [wa]s not a stranger to him” (*id.* at 20, 21). Scott’s deposition testimony and hearing testimony were demonstrably false, yet Dobie knowingly submitted them to the court in support of his motion. In rejecting the IPA motion, Judge Broderick “d[id] not credit Mr. Scott’s recantation” and found his testimony “at best, suspicious” (IPA Order at 7). Judge Broderick noted Scott’s “remarkable” demeanor, both in his video-taped deposition and in his hearing testimony, which she described as “inauthentic, nervous, and forced” (*id.* at 8-9; A. 20 (IRAA Order)). Based on this record, the court had a strong factual basis for its finding

that Dobie knowingly suborned perjury by submitting clearly false deposition testimony and presenting clearly false testimony at the evidentiary hearing.

Contrary to Dobie's suggestion (at 18), the court did not penalize Dobie for his "decision to maintain his innocence." The court explicitly stated that it "[wa]s not requiring [Dobie] to accept responsibility or express remorse to qualify under the IRAA" (A. 21 (IRAA Order)). As the court reasoned, "[t]he Constitution allows [a d]efendant to assert and maintain his innocence; it does not allow him to put false evidence before the [c]ourt" (*id.*). Here, Dobie filed an IPA petition which "clearly was false," including "submit[ing] the sworn deposition by Mr. Scott" and "knowingly suborn[ing] perjury" by putting Scott on the stand to lie (*id.*). He also "filed a notice of appeal challenging Judge Broderick's denial of his IPA motion," persisting in his false and perjurious claim of innocence (*id.*). In the trial court's view, Dobie's actions, which were taken relatively recently, demonstrated that Dobie was not yet fit to reenter society and that the interests of justice did not condone such an abuse of the system of justice (*id.* at 21, 26-28).

A trial court may consider a defendant's presentation of false exculpatory testimony in assessing a defendant's prospects for rehabilitation and the justness of a sentence. *Cf. Brandon v. United States*, 553 A.2d 640, 644 n.9 (D.C. 1989) ("If the judge finds that [the defendant] committed perjury during the trial, the judge is free to consider this in assessing [his] rehabilitative potential and, in general, as to what [his] punishment should be."). Dobie's role in submitting false testimony in support of his IPA motion rightly undermines his IRAA request.

In any event, even if the court somehow erred in considering Dobie's role in submitting false testimony in the IPA motion in connection with the interests-of-justice analysis, this error was harmless because Factor 11 directs courts to consider "[a]ny other information that the [c]ourt deems relevant to its decision." D.C. Code § 24-403.03(c)(11). The ordinary meaning of "any"

allows the court to consider any other factor it deems relevant to assessing dangerousness and the interests of justice, which may include a recent decision to suborn perjury. *See, e.g., Welch*, 319 A.3d at 975 (trial court did not abuse discretion in finding that defendant “was not sufficiently rehabilitated and that the interests of justice did not support immediate release” based on defendant’s letter expressing entitlement to release and lack of remorse). Thus, the trial court here did not err in refusing to “overlook the filing of the IPA petition which clearly was false” (A. 21 (IRAA Order)), especially where Dobie filed that IPA petition as an adult.

Conclusion

WHEREFORE, the government respectfully submits that the judgment of the Superior Court should be affirmed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have caused a copy of the foregoing to be served by electronic means, through the Court's EFS system, upon counsel for appellant, Sarah McDonald, Esq., on this 19th day of November, 2024.

/s/

AMANDA CLAIRE HOOVER
Assistant United States Attorney