

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT KNOXVILLE
Assigned on Briefs June 23, 2026

FILED

07/02/2026

Clerk of the
Appellate Courts

STATE OF TENNESSEE v. WILLIAM LAVELL NELSON

**Appeal from the Criminal Court for Hamilton County
No. 311890 Boyd M. Patterson, Judge**

No. E2025-01642-CCA-R3-CD

Pursuant to a negotiated plea agreement, the Defendant, William Lavell Nelson, pled guilty to one count of aggravated assault and received an agreed-upon sentence of ten years' incarceration as a Range II, multiple offender. The Defendant thereafter filed a motion to correct an illegal sentence pursuant to Tennessee Rule of Criminal Procedure 36.1, which the trial court summarily dismissed. On appeal, the Defendant argues that the trial court erred by summarily dismissing his motion and by considering it as a request for relief pursuant to Tennessee Rule of Criminal Procedure 35. Discerning no reversible error, we affirm.

**Tenn. R. App. P. 3 Appeal as of Right;
Judgment of the Criminal Court Affirmed**

STEVEN W. SWORD, J., delivered the opinion of the court, in which ROBERT H. MONTGOMERY, JR., and TIMOTHY L. EASTER, JJ., joined.

William Lavell Nelson, Tiptonville, Tennessee, Pro Se.

Jonathan Skrmetti, Attorney General and Reporter; Julia A. Johnson, Assistant Attorney General; Coty Wamp, District Attorney General; and Andrew Coyle, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

I. FACTUAL AND PROCEDURAL HISTORY

On August 4, 2021, a Hamilton County grand jury returned a six-count indictment charging the Defendant with aggravated sexual battery, attempted first degree murder,

aggravated assault, especially aggravated kidnapping, employment of a firearm during the commission of a dangerous felony, and aggravated rape. The trial court appointed counsel.

Pursuant to a negotiated plea agreement, the Defendant pled guilty to one count of aggravated assault on January 25, 2024. The remainder of the Defendant's charges were dismissed, and the Defendant agreed to be sentenced to a term of ten years' incarceration as a Range II, multiple offender. The trial court accepted the Defendant's guilty plea, and a judgment of conviction consistent with the Defendant's negotiated plea agreement was entered that same day.

On May 20, 2024, the Defendant filed a motion seeking permission to file an untimely notice of appeal of his judgment and agreed-upon sentence. On June 4, 2024, this court denied the Defendant's motion, concluding that the Defendant did not have a right to appeal from a judgment arising from a guilty plea in which he received an agreed-upon sentence based upon his plea agreement. *State v. Nelson*, No. E2024-00726-CCA-MR3-CD (Tenn. Crim. App. June 4, 2024) (Order); *see also* Tenn. R. App. P. 3(b) (providing that a criminal defendant has an appeal as of right "from any judgment of conviction entered by a trial court . . . on a plea of guilty or nolo contendere, if the defendant entered into a plea agreement . . . if the defendant seeks review of the sentence *and there was no plea agreement concerning the sentence.*") (emphasis added).

On September 30, 2025, the Defendant filed a "Motion to Correct Illegal Sentence Pursuant to Tenn. R. Crim. P., Rule 36.1." In his motion, the Defendant argued that he was improperly classified as a Range II, multiple offender, because he did not have the requisite number of prior qualifying felony convictions. He argued he did not benefit from his negotiated plea agreement, although he conceded that several of his charges were dismissed pursuant to its terms. He requested that the trial court order the preparation of a presentence report, appoint counsel, and resentence him as a Range I, standard offender.

On September 30, 2025, the trial court denied the Defendant's motion, concluding that the motion did not "provide exceptional grounds for granting relief" pursuant to Tennessee Rule of Criminal Procedure 35. This timely appeal followed.

II. ANALYSIS

On appeal, the Defendant argues that the trial court erred by summarily dismissing his September 30, 2025 motion and by considering it as a request for relief pursuant to Tennessee Rule of Criminal Procedure 35. He contends that his motion clearly identified itself as a request for relief pursuant to Tennessee Rule of Criminal Procedure 36.1 and raised a colorable claim for relief. The State responds that the Defendant has waived

appellate review of his claim due to inadequate briefing and that, regardless, summary dismissal was appropriate. We agree with the State.

Tennessee Rule of Criminal Procedure 35, Reduction of Sentence, provides that “[t]he trial court may reduce a sentence upon motion filed within 120 days after the date the sentence is imposed or probation is revoked.” Tenn. R. Crim. P. 35(a). Rule 35’s 120-day timeframe is strict and may not be extended or tolled. *Id.* In considering a timely filed Rule 35 motion, the trial court “may reduce a sentence only to one the court could have originally imposed.” *Id.* at 35(b). The trial court may deny a defendant’s Rule 35 motion without a hearing. *Id.* at 35(c). Rule 35 is designed to provide relief by modifying a defendant’s sentence “only in circumstances where an alteration of the sentence may be proper in the interests of justice.” Tenn. R. Crim. P. 35, Advisory Comm’n Cmts. We review a trial court’s decision to either grant or deny a defendant’s Rule 35 motion for an abuse of discretion. *State v. Irick*, 861 S.W.3d 263, 267 (Tenn. Crim. App. 1993).

Tennessee Rule of Criminal Procedure 36.1, Correction of Illegal Sentence, provides both a criminal defendant and the State an avenue to seek the correction of an illegal sentence at any time before the sentence has expired. Tenn. R. Crim. P. 36.1(a)(1), (f). “[A]n illegal sentence is one that is not authorized by the applicable statutes or that directly contravenes an applicable statute.” *Id.* at 36.1(a)(2). A motion to correct an illegal sentence pursuant to Rule 36.1 “must state with particularity the factual allegations on which the claim for relief from an illegal sentence is based.” *State v. Wooden*, 478 S.W.3d 585, 594 (Tenn. 2015). “If the motion states a colorable claim that the unexpired sentence is illegal, . . . and if the defendant is indigent and is not already represented by counsel, the court shall appoint counsel to represent the defendant.” Tenn. R. Crim. P. 36.1(b)(3). On the other hand, if the trial court, after reviewing the motion, any response thereto, and the record, “determines that the motion fails to state a colorable claim, it shall enter an order summarily denying the motion.” *Id.* at 36.1(b)(2). A colorable claim is “a claim that, if taken as true and viewed in a light most favorable to the moving party, would entitle the moving party to relief under Rule 36.1.” *Wooden*, 478 S.W.3d at 593. Whether a motion to correct an illegal sentence pursuant to Rule 36.1 states a colorable claim for relief is a question of law which this court reviews de novo. *Id.* at 589 (citing *Summers v. State*, 212 S.W.3d 251, 255 (Tenn. 2007)).

As a preliminary matter, we address the State’s argument that the Defendant has waived appellate review of his claim due to inadequate briefing. The basic rules of this court require an appellant to present a brief which sets forth “the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief, with citations to the authorities and appropriate references to the record (which may be quoted verbatim) relied on.” Tenn. R. App. P. 27(a)(7). Although we afford pro se litigants greater leniency than attorneys in the

drafting of their appellate briefs, they are, nevertheless, not “entitled to shift the burden of litigating their case to the courts.” *State v. Benson*, No. W2017-01276-CCA-R3-CD, 2018 WL 4562928, at *3 (Tenn. Crim. App. Sept. 21, 2018) (citing *Chiozza v. Chiozza*, 315 S.W.3d 482, 487 (Tenn. Ct. App. 2009)). The Defendant’s appellate brief does not, at any point, cite to the record in support of his arguments that the trial court erred by construing his September 30, 2025 motion as a Rule 35 motion or that he raised a colorable claim for relief. Because the Defendant has failed to support his arguments with citations to the record, his arguments are waived. *See* Tenn. R. Crim. App. 10(b) (“Issues which are not supported by argument, citation to authorities, or appropriate references to the record will be treated as waived in this court.”); *see also* *Donovan v. Hastings*, 652 S.W.3d 1, 9 (Tenn. 2022) (“[T]he appellate court is not charged with the responsibility of scouring the appellate record for any reversible error the trial court may have committed.”).

Waiver notwithstanding, the Defendant is not entitled to relief. To be sure, review of the Defendant’s September 30, 2025 motion indicates that the Defendant sought resentencing under Rule 36.1 rather than Rule 35. As noted above, Rule 35 contemplates the reduction of a defendant’s sentence via a motion filed within 120 days of the entry of judgment, whereas Rule 36.1 contemplates the correction of an illegal sentence via a motion filed at any point prior to the sentence’s expiration. *See* Tenn. R. Crim. P. 35, 36.1. The Defendant’s motion was titled as a “Motion to Correct Illegal Sentence Pursuant to Tenn. R. Crim. P., Rule 36.1,” and the Defendant specifically cited Rule 36.1 and argued that his sentence was illegal in the body of his motion. He did not cite Rule 35 at any point in his motion, and although he technically requested a reduction of his sentence, he did so in the context of an argument that his sentence was illegal because he was sentenced as a Range II offender rather than a Range I offender. Trial courts are to give effect to the substance of filings, rather than the form or terminology used by pro se litigants. *Brown v. City of Manchester*, 722 S.W.2d 394, 397 (Tenn. Ct. App. 1986). The substance and the terminology of the Defendant’s motion dealt with illegal sentences, not a request for a reduction of sentence. Accordingly, the trial court erred in construing the Defendant’s September 30, 2025 motion as a motion for the reduction of his sentence pursuant to Rule 35.

That distinction, however, does not alter the outcome of this case, because the Defendant’s motion failed to present a colorable claim for relief under Rule 36.1.¹ The Defendant argued that he did not have the requisite number of prior qualifying felony

¹ We note that even assuming, *arguendo*, that the trial court appropriately considered the Defendant’s September 30, 2025 motion as a Rule 35 motion, denial would still have been appropriate. A defendant must file a motion for reduction of his or her sentence pursuant to Rule 35 within 120 days of the imposition of sentence. Tenn. R. Crim. P. 35(a). The Defendant’s judgments of conviction were entered on January 25, 2024, and the Defendant sought relief on September 30, 2025, more than 600 days after the imposition of his sentence.

convictions to justify the trial court's sentencing him as a Range II, multiple offender. Even taking this assertion as true, the Defendant would not be entitled to relief. As the Tennessee Supreme Court has noted, there are three categories of sentencing errors: clerical errors, which involve clerical mistakes in a defendant's judgment sheet and which may be corrected through Tennessee Rule of Criminal Procedure 36; appealable errors, for which the Sentencing Act provides a right of direct appeal; and fatal errors, which are "so profound as to render the sentence illegal and void." *Wooden*, 478 S.W.3d at 595 (citing *Cantrell v. Easterling*, 345 S.W.3d 445, 452 (Tenn. 2011)). The scope of relief provided by Rule 36.1 is explicitly limited to correcting fatal errors, *Wooden*, 478 S.W.3d at 595, and errors in offender classifications are not fatal errors, *State v. Lindsey*, No. E2014-02096-CCA-R3-CD, 2015 WL 5692072, at *2 (Tenn. Crim. App. Sept. 29, 2015), *perm. app. denied* (Tenn. Feb. 18, 2016).

In his September 30, 2025 motion, the Defendant also contended that he was unaware of his appropriate sentencing range classification until after he was "coerced" into accepting the State's plea offer. Although he does not maintain this claim on appeal, we note that the record belies it and that, regardless, it would not have been a valid basis for relief pursuant to Rule 36.1. On January 25, 2024, the Defendant signed a "Petition to Waive Right to Trial by Jury and to Enter a Plea of Guilty" which stated that he understood that his appropriate offender classification was as a Range I, standard offender; that he understood the minimum and maximum penalties available for each of his charges; and that he nevertheless pled guilty to one count of aggravated assault and agreed to receive a sentence of ten years' incarceration as a Range II, multiple offender. A defendant may, as a condition of a negotiated guilty plea, consent to be sentenced within a sentencing range beyond that which would otherwise be statutorily authorized, so long as the negotiated sentence does not exceed the maximum punishment statutorily authorized by the offense. *See Hoover v. State*, 215 S.W.3d 776, 780 (Tenn. 2007). Regardless, Rule 36.1 does not serve as a mechanism for defendants to collaterally attack the validity of their guilty pleas. *See State v. Schelfe*, No. M2018-01604-CCA-R3-CD, 2019 WL 4071981, at *3 (Tenn. Crim. App. Aug. 29, 2019) (collecting cases), *perm. app. denied* (Tenn. Feb. 19, 2020). Because Rule 36.1 does not authorize the relief the Defendant requests, summary dismissal of his September 30, 2025 motion was appropriate, and any error in the trial court's interpretation of that motion was harmless. The Defendant is not entitled to relief.

III. CONCLUSION

Following our review of the record and based upon the foregoing analysis, we affirm the judgment of the trial court.

s/ Steven W. Sword

STEVEN W. SWORD, JUDGE