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SUPREME COURT OF APPEALS
OF WEST VIRGINIA

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

Fall 2026 Term

No. 23-620

STATE OF WEST VIRGINIA,
Plaintiff below, Respondent,

v.

THOMAS M. VALENTINE,
Defendant below, Petitioner.

Appeal from the Circuit Court of Marion County
The Honorable David R. Janes, Judge
Case Nos. 22-F-274 and 23-F-82

AFFIRMED

Submitted: September 22, 2026
Filed: November 13, 2026

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JUSTICE FLANIGAN delivered the Opinion of the Court.

CHIEF JUSTICE BUNN and JUSTICE TRUMP concur and reserve the right to write separately.

SYLLABUS BY THE COURT

1. "The function of an appellate court when reviewing the sufficiency of the evidence to support a criminal conviction is to examine the evidence admitted at trial to determine whether such evidence, if believed, is sufficient to convince a reasonable person of the defendant's guilt beyond a reasonable doubt. Thus, the relevant inquiry is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proved beyond a reasonable doubt." Syl. Pt. 1, *State v. Guthrie*, 194 W. Va. 657, 461 S.E.2d 163 (1995).

2. "A criminal defendant challenging the sufficiency of the evidence to support a conviction takes on a heavy burden. An appellate court must review all the evidence, whether direct or circumstantial, in the light most favorable to the prosecution and must credit all inferences and credibility assessments that the jury might have drawn in favor of the prosecution. The evidence need not be inconsistent with every conclusion save that of guilt so long as the jury can find guilt beyond a reasonable doubt. Credibility determinations are for a jury and not an appellate court. Finally, a jury verdict should be set aside only when the record contains no evidence, regardless of how it is weighed, from which the jury could find guilt beyond a reasonable doubt." Syl. Pt. 3, in part, *State v. Guthrie*, 194 W. Va. 657, 461 S.E.2d 163 (1995).

3. "'The question of whether a person possesses a controlled substance with intent to manufacture or deliver is a jury question to be determined like other questions of intent from all the surrounding facts and circumstances, and as such intent is a basic element of the offense, it must be proven beyond a reasonable doubt.' Syllabus Point 3, *State v. Frisby*, 161 W. Va. 734, 245 S.E.2d 622 (1978)." Syl. Pt. 5, *State v. Drake*, 170 W. Va. 169, 291 S.E.2d 484 (1982).

4. "Article III, Section 5 of the West Virginia Constitution, which contains the cruel and unusual punishment counterpart to the Eighth Amendment of the United States Constitution, has an express statement of the proportionality principle: 'Penalties shall be proportioned to the character and degree of the offence.'" Syl. Pt. 8, *State v. Vance*, 164 W. Va. 216, 262 S.E.2d 423 (1980).

5. "For purposes of a life recidivist conviction under West Virginia Code § 61-11-18(c) [(2000)], two of the three felony convictions considered must have involved either (1) actual violence, (2) a threat of violence, or (3) substantial impact upon the victim such that harm results. If this threshold is not met, a life recidivist conviction is an unconstitutionally disproportionate punishment under Article III, Section 5 of the West Virginia Constitution." Syl. Pt. 12, *State v. Hoyle*, 242 W. Va. 599, 836 S.E.2d 817 (2019).

FLANIGAN, Justice:

Petitioner Thomas M. Valentine appeals his 2023 convictions on six felony counts arising from a traffic stop, and the recidivist life sentence, under West Virginia Code § 61-11-18, attached to his conviction for possession of a firearm by a prohibited person. He argues that the evidence was insufficient to support his convictions, and that the recidivist life sentence violates the proportionality principle of Article III, Section 5 of the West Virginia Constitution. For reasons set forth below, we affirm.

I. FACTS AND PROCEDURAL BACKGROUND

On February 10, 2022, Deputy Brandon Clyde of the Marion County Sheriff's Department stopped a Jeep Commander after observing that it had an inoperable brake light and that its license plate was registered to a different vehicle. Thomas M. Valentine was driving; Crystal Haggerty was in the front passenger seat. During the traffic stop, Mr. Valentine seemed nervous and admitted that he did not have a valid driver's license. When officers searched the vehicle, they found a loaded firearm, a large amount of narcotics, and drug trafficking paraphernalia. A pat-down of Mr. Valentine produced $1,863 in cash.

Based upon these basic facts, the Marion County Grand Jury returned an eight-count indictment in 2022 charging Mr. Valentine with (1) conspiracy with intent to deliver a controlled substance (methamphetamine); (2) possession with intent to deliver a

controlled substance (methamphetamine); (3) conspiracy to commit a felony controlled substance offense; (4) possession with intent to deliver a controlled substance (cocaine); (5) possession with intent to deliver a controlled substance (heroin);[1] (6) use or presentment of a firearm in the commission of a felony; (7) carrying a concealed firearm by a prohibited person; and (8) possession of a firearm by a prohibited person.

Mr. Valentine's jury trial was held in March 2023. Deputy Clyde testified that on February 10, 2022, he initiated a traffic stop of a vehicle with an inoperable brake light and a license plate that was not registered to the vehicle. Deputy Clyde identified Mr. Valentine as the driver of the vehicle and Crystal Haggerty as a passenger in the front seat. According to Deputy Clyde, Mr. Valentine stated that the vehicle belonged to his cousin and that he was simply moving the vehicle to another location. Deputy Clyde testified that Mr. Valentine did not have a valid driver's license, the vehicle's registration, or motor vehicle insurance. Deputy Clyde testified that he asked to search the vehicle, and when Mr. Valentine did not consent, a narcotics-detection-trained canine performed an open-air sniff that resulted in a positive alert on Ms. Haggerty's side of the vehicle. A subsequent search of the vehicle revealed a loaded firearm in the center console, plastic baggies, scales, vials, a scoop, straws, a grinder, smoking pipes, and controlled substances that were later determined to include approximately 40 grams of methamphetamine and an unspecified

[1] Following the indictment, testing revealed that the substance suspected to be heroin was fentanyl, which is also a controlled substance under the relevant statute.

amount of fentanyl mixed with tramadol. Additionally, Mr. Valentine had $1,863 in cash. The drugs and drug paraphernalia, coupled with the large amount of cash, led Deputy Clyde to believe that Mr. Valentine was trafficking narcotics.

Sergeant Russell Garrett of the Marion County Sheriff's Department testified that he assisted Deputy Clyde in conducting the traffic stop of the vehicle Mr. Valentine was driving. Sergeant Garrett confirmed that Deputy Clyde had conducted a canine scan of the vehicle, which indicated the presence of controlled substances. Sergeant Garrett testified that he assisted Deputy Clyde in searching the vehicle, and he noted that officers recovered a firearm, a backpack containing clothing and a piece of mail addressed to Mr. Valentine, drug paraphernalia, and narcotics. Sergeant Garrett testified that Mr. Valentine denied owning the firearm but admitted that he knew it was present in the vehicle. Regarding the drug paraphernalia, Sergeant Garrett opined that it was the type that would be used for packaging and selling narcotics. He also testified that at some point during the traffic stop, Lakeisha Watkins, the wife of Mr. Valentine's cousin, arrived on the scene and informed officers that Mr. Valentine was in the process of purchasing the vehicle from her.

Ms. Watkins testified that Mr. Valentine had purchased the vehicle from her a few weeks prior to the traffic stop. However, he had not yet paid the full purchase price of the vehicle, so Ms. Watkins's name was still on the title to the vehicle. Ms. Watkins testified that Mr. Valentine called her during the traffic stop and advised her of the situation,

and she responded to the scene and observed officers arrest Mr. Valentine and Ms. Haggerty. Ms. Watkins testified that her ex-boyfriend's firearm was unknowingly left in the center console at the time Mr. Valentine took possession of the vehicle, but she denied that she had any drugs or drug paraphernalia in the vehicle.

Tara Hayslip, a forensic scientist with the West Virginia State Police Forensics Laboratory, testified that she analyzed several samples of the narcotics seized from the vehicle Mr. Valentine was driving and they were determined to be methamphetamine, as well as fentanyl mixed with tramadol. Ms. Hayslip stated that none of the samples tested positive for cocaine. Following Ms. Hayslip's testimony, the State rested its case and moved to dismiss the count of possession with intent to deliver cocaine, which the court granted without objection.

During trial, the defense emphasized that the backpack and the item of mail with Mr. Valentine's name were neither photographed nor secured and were not mentioned in the narrative report; that no bodycam or audio recording captured the search of the vehicle or Mr. Valentine's statements; and that no drugs or paraphernalia were found on Mr. Valentine.

At the close of the State's case-in-chief, the circuit court reserved a spot on the record for "any appropriate motions." After the jury began deliberations, the court took up those motions, stating that it was of "the opinion that the evidence . . . considered in the light most favorable to the state . . . would be sufficient to sustain a conviction on each of the remaining seven counts." The circuit court then overruled the defense's motion for judgment of acquittal.

The jury found Mr. Valentine guilty of (1) conspiracy with the intent to deliver methamphetamine; (2) possession with the intent to deliver methamphetamine; (3) conspiracy to commit a felony controlled substance offense; (4) possession with intent to deliver fentanyl; (5) carrying a concealed firearm by a prohibited person; and (6) possession of a firearm by a prohibited person. The jury found him not guilty of use or presentment of a firearm during the commission of a felony.

Subsequently, the State filed a recidivist information, noting that Mr. Valentine had a prior 2019 felony conviction for fleeing in a vehicle with reckless indifference for the safety of others and a 2019 felony conviction for strangulation. The circuit court held Mr. Valentine's recidivist trial in August 2023. Deputy Clyde testified to Mr. Valentine's most recent conviction that led to the filing of the recidivist information—possession of a firearm by a prohibited person. Deputy Clyde further stated that he performed a background check of Mr. Valentine, which led to the discovery of two prior

felony convictions. Deputy Keith Boggess of the Marion County Sheriff's Department and Officer Reed Moran of the Fairmont Police Department testified regarding these prior felony convictions, and the circuit court admitted into evidence the court disposition documents regarding the convictions. After deliberation, the jury found Mr. Valentine was the person found guilty of these prior offenses.

Following the recidivist trial, the circuit court held a sentencing hearing on September 20, 2023. The court sentenced Mr. Valentine to concurrent sentences of five years of imprisonment for conspiracy with the intent to deliver methamphetamine; not less than one year nor more than fifteen years of imprisonment for possession with intent to deliver methamphetamine; five years of imprisonment for conspiracy to commit a felony controlled substance offense; and not less than one year nor more than fifteen years of imprisonment for possession with intent to deliver fentanyl. The court also sentenced Mr. Valentine to five years of imprisonment for carrying a concealed firearm by a prohibited person and life imprisonment with the possibility of parole for possession of a firearm by a prohibited person, which were to run concurrently with each other but consecutively to the former sentences. The circuit court entered its sentencing order on September 26, 2023, and Mr. Valentine timely appealed.

II. STANDARD OF REVIEW

Mr. Valentine raises two assignments of error that have different standards of review. We set forth the applicable standard of review in our discussion of each issue below.

III. DISCUSSION

A. Evidence was Sufficient to Support the Convictions

Mr. Valentine first raises a sufficiency of the evidence challenge, arguing that the totality of the evidence was insufficient to sustain a conviction on any charge of conspiracy or intent to deliver on his part or that he was knowingly in possession of a firearm at the time of the traffic stop. The State responds that this first assignment of error was not preserved by any motion below, and even if reviewed on the merits, the evidence viewed in the light most favorable to the State supports the jury's verdict.

We proceed to address this issue on the merits. The circuit court reserved a ruling on any motion for judgment of acquittal at the close of the State's case and then denied that motion after finding the evidence sufficient; that ruling preserved the issue for appellate review. This Court examines a sufficiency of the evidence challenge under the following standards of review:

> The function of an appellate court when reviewing the sufficiency of the evidence to support a criminal conviction is to examine the evidence admitted at trial to determine whether such evidence, if believed, is sufficient to convince a reasonable person of the defendant's guilt beyond a reasonable doubt. Thus, the relevant inquiry is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proved beyond a reasonable doubt.
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> A criminal defendant challenging the sufficiency of the evidence to support a conviction takes on a heavy burden. An appellate court must review all the evidence, whether direct or circumstantial, in the light most favorable to the prosecution and must credit all inferences and credibility assessments that the jury might have drawn in favor of the prosecution. The evidence need not be inconsistent with every conclusion save that of guilt so long as the jury can find guilt beyond a reasonable doubt. Credibility determinations are for a jury and not an appellate court. Finally, a jury verdict should be set aside only when the record contains no evidence, regardless of how it is weighed, from which the jury could find guilt beyond a reasonable doubt.

Syl. Pt. 1 and Syl. Pt. 3, in part, *State v. Guthrie*, 194 W. Va. 657, 461 S.E.2d 163 (1995).

Mr. Valentine was convicted of the following drug-related offenses: conspiracy with intent to deliver methamphetamine,[2] conspiracy with the intent to commit

[2] *See* W. Va. Code § 60A-4-414(c) (2017) (providing that any person who willfully conspires with another to possess with the intent to deliver methamphetamine is guilty of a felony).

a controlled substance offense,[3] possession with intent to deliver methamphetamine,[4] and possession with the intent to deliver fentanyl.[5] This Court has long recognized that possession with intent to deliver a controlled substance "can be proven by establishing a number of circumstances among which are the quantity of the controlled substance possessed and the presence of other paraphernalia customarily used in the packaging and delivery of controlled substances." Syl. Pt. 4, in part, *State v. Drake*, 170 W. Va. 169, 291 S.E.2d 484 (1982); *see also State v. Williams*, 210 W. Va. 583, 558 S.E.2d 582 (2001) (large amounts of cash and the absence of personal-use paraphernalia are likewise probative of intent to deliver). Factors probative of intent to deliver thus include whether the quantity of the controlled substance is too large for personal consumption, the possession of weapons, the possession of a large amount of cash, and the possession of drug paraphernalia. *See United States v. Fetters*, 698 F.3d 653, 657 (8th Cir. 2012). Furthermore,

> "[t]he question of whether a person possesses a controlled substance with intent to manufacture or deliver is a jury

[3] *See* W. Va. Code § 60A-4-414(a) (2017) (providing that "[a]ny person who willfully conspires with one or more persons to commit a felony violation of section four hundred one of this article, if one or more of such persons does any act to effect the object of the conspiracy, is guilty of a felony[.]").

[4] *See* W. Va. Code § 60A-4-401(a)(i) (2020) (providing that "it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver" a Schedule I or II controlled substance, including methamphetamine and fentanyl).

[5] *See id*.

> question to be determined like other questions of intent from all the surrounding facts and circumstances, and as such intent is a basic element of the offense, it must be proven beyond a reasonable doubt." Syllabus Point 3, *State v. Frisby*, 161 W. Va. 734, 245 S.E.2d 622 (1978).

Drake at 170, 291 S.E.2d at 485, Syl. Pt. 5.

Regarding the drug-related convictions, Mr. Valentine argues that the State failed to present any evidence of a relationship between him and Ms. Haggerty such that a conspiracy had been formed or that he had any intent to deliver illegal substances. He also claims that the State presented no evidence regarding how the drugs were placed in the vehicle or which occupant of the vehicle had control or possession of the drugs; Mr. Valentine points out that the police canine alerted to the presence of drugs on Ms. Haggerty's side of the vehicle and that the drugs and paraphernalia were located in or near the passenger glovebox compartment. Mr. Valentine contends that there was no evidence that he had possession of the drugs or that either occupant of the vehicle intended to distribute them.

The evidence presented by the State established that Mr. Valentine purchased the vehicle from Ms. Watkins several weeks prior to the traffic stop, and Ms. Watkins testified that she did not leave any drugs in the vehicle at the time he took possession. Deputy Clyde identified Mr. Valentine as the driver of the vehicle and Ms. Haggerty as the

passenger. Deputy Clyde testified that Mr. Valentine appeared nervous and refused to allow a search of the vehicle; when Deputy Clyde initiated a canine open-air sniff around the vehicle, it resulted in a positive indication for drugs. A subsequent search of the vehicle revealed digital scales, baggies, various scoops and straws for measuring, methamphetamine, and fentanyl.

Both Deputy Clyde and Sgt. Garrett explained, in detail, how drugs are typically packaged for sale using the items found in the vehicle Mr. Valentine was driving, and both opined that the amount of drugs and paraphernalia coupled with the large amount of cash found on Mr. Valentine's person was indicative of the trafficking of controlled substances. This evidence was sufficient for the jury to conclude that Mr. Valentine possessed both methamphetamine and fentanyl with the intent to deliver and that he conspired with Ms. Haggerty to do so, which satisfies the elements of the crimes charged.

Mr. Valentine also directs our attention to the lack of direct evidence showing a conspiracy between him and Ms. Haggerty, noting that the police investigation yielded no electronic messages or cell data which would indicate the two were involved in a conspiracy. However, ample circumstantial evidence supports the jury's finding that Mr. Valentine and Ms. Haggerty were jointly involved in a scheme to possess with intent to distribute considering their joint presence in the vehicle that contained a large quantity of narcotics, a loaded firearm, large amount of cash, and paraphernalia indicative of

trafficking. When viewed in the light most favorable to the State, the evidence was sufficient for the jury to find that a conspiracy had been formed. *See State v. Cutright*, No. 20-0332, 2021 WL 5033687 (W. Va. Oct. 29, 2021) (memorandum decision) (stating that there was sufficient evidence to support a conviction for conspiracy to possess with the intent to deliver methamphetamine where two people were present in a vehicle containing drugs and neither person claimed responsibility for the drugs); *State v. Less*, 170 W. Va. 259, 265, 294 S.E.2d 62, 67 (1981) (explaining that a conspiracy to commit an offense may be inferred from the conspirators' actions or circumstantial evidence). Accordingly, we find that the circuit court did not err in denying the motion for a judgment of acquittal on these charges.

Regarding the charges pertaining to the firearm, Mr. Valentine argues that although he stipulated to being a prohibited person, the State proceeded on constructive possession and that Sgt. Garrett's unrecorded, "uncorroborated" testimony was the only evidence he knew about the firearm in the vehicle. He notes that Ms. Watkins testified that the firearm found in the center console of the vehicle belonged to her ex-boyfriend and that she had not informed Mr. Valentine that it was in the console when he took possession of the vehicle. West Virginia Code § 61-7-7(b)(1) prohibits any person "[w]ho has been convicted in this state or any other jurisdiction of a felony crime of violence against the person of another or of a felony sexual offense" from possessing a firearm. Moreover, West Virginia Code § 61-7-7(e) provides that "[a]s a separate and additional offense to the

offense described in subsection (b) of this section, . . . any person prohibited by subsection (b) of this section from possessing a firearm who carries a concealed firearm is guilty of a felony."

To establish constructive possession where the defendant is present in a vehicle in which contraband is found, the State must prove that the defendant had knowledge of the item and that it was subject to his dominion and control; where occupancy of the vehicle is shared, the State must show "some connection or nexus individually linking the defendant to the contraband." Syl. Pt. 6, in part, *State v. Cummings*, 220 W. Va. 433, 647 S.E.2d 869 (2007); *State v. Brock*, 235 W. Va. 394, 774 S.E.2d 60 (2015); *see also State v. Anthony M.*, 251 W. Va. 485, 914 S.E.2d 720 (2025) (applying the same knowledge-and-control test to constructive possession of a firearm by a prohibited person in a shared space). Mr. Valentine stipulated to being a prohibited person, and Sgt. Garrett's testified that while Mr. Valentine denied owning the firearm, he knew that it was present in the center console of the vehicle (he was in the process of purchasing) and over which he had dominion and control. Mr. Valentine's objection that Sgt. Garrett's account was unrecorded and uncorroborated is a credibility argument the jury resolved against him, and it does not render the evidence legally insufficient. We therefore conclude that the State presented sufficient evidence for the jury to conclude that Mr. Valentine constructively possessed the firearm and carried a concealed firearm. Accordingly, the circuit court did not err in denying the motion for a judgment of acquittal on these charges.

B. Life Recidivist Sentence is not Constitutionally Disproportionate

Mr. Valentine next argues that his life recidivist sentence, under West Virginia Code § 61-11-18, is unconstitutionally disproportionate. He contends that his triggering conviction for possession of a firearm by a prohibited person and his prior conviction for fleeing in a vehicle with reckless indifference for the safety of others did not involve actual violence, the threat of violence, or a substantial impact on any victim, and, as such, his life recidivist sentence is unconstitutionally disproportionate. The State responds that the circuit court did not abuse its discretion when imposing a life recidivist sentence under the statute because not only was Mr. Valentine's triggering felony a qualifying offense, so were both earlier felony convictions.

Generally, we review "'sentencing orders . . . under a deferential abuse of discretion standard, unless the order violates statutory or constitutional commands.' Syl. Pt. 1, in part*, State v. Lucas*, 201 W. Va. 271, 496 S.E.2d 221 (1997)." Syl. Pt. 1, in part, *State v. James*, 227 W. Va. 407, 710 S.E.2d 98 (2011). "Where the issue involves the application of constitutional protections, our review is de novo." *State v. Patrick C.*, 243 W. Va. 258, 261, 843 S.E.2d 510, 513 (2020). "Article III, Section 5 of the West Virginia Constitution, which contains the cruel and unusual punishment counterpart to the Eighth Amendment of the United States Constitution, has an express statement of the

proportionality principle: 'Penalties shall be proportioned to the character and degree of the offence.'" Syl. Pt. 8, *State v. Vance*, 164 W. Va. 216, 262 S.E.2d 423 (1980).

Under West Virginia's recidivist statute,

> [w]hen it is determined, as provided in § 61-11-19 of this code, that such person shall have been twice before convicted in the United States of a crime punishable by imprisonment in a state correctional facility which has the same or substantially similar elements as a qualifying offense, the person shall be sentenced to imprisonment in a state correctional facility for life[.]

W. Va. Code § 61-11-18(d) (2021).[6] Beginning in 2020, the Legislature enumerated the crimes that qualify for treatment as triggering and predicate offenses under West Virginia Code § 61-11-18, denominating them "qualifying offenses." Mr. Valentine's triggering offense of prohibited person in possession of a firearm and his predicate offenses of strangulation and fleeing in a vehicle with reckless disregard are qualifying offenses under West Virginia Code § 61-11-18(a).[7]

[6] The offense date of Mr. Valentine's triggering conviction is February 10, 2022; therefore, we apply the 2021 version of West Virginia Code § 61-11-18, effective July 6, 2021, through June 8, 2022.

[7] The Legislature has amended the statute several times since 2021 and renumbered the enumerated paragraphs. The substance is unchanged; all three crimes remain qualifying offenses.

When reviewing the appropriateness of a life recidivist sentence, this Court considers "the nature of the triggering offense and whether the prior offenses involved actual or threatened violence." *State v. Horton*, 248 W. Va. 41, 47, 886 S.E.2d 509, 515 (2023).[8] In syllabus point twelve of *State v. Hoyle*, 242 W. Va. 599, 836 S.E.2d 817 (2019), we held that

> [f]or purposes of a life recidivist conviction under West Virginia Code § 61-11-18(c) [(2000)], two of the three felony convictions considered must have involved either (1) actual violence, (2) a threat of violence, or (3) substantial impact upon the victim such that harm results. If this threshold is not met, a life recidivist conviction is an unconstitutionally disproportionate punishment under Article III, Section 5 of the West Virginia Constitution.

Mr. Valentine's triggering offense and two prior felony convictions meet the *Hoyle* threshold. First, the triggering offense, prohibited person in possession of a firearm under West Virginia Code § 61-7-7(b), is a crime that involves a threat of violence. *See*

[8] *See* Syl. Pt. 11, *State v. Hoyle*, 242 W. Va. 599, 836 S.E.2d 817 (2019) ("'The appropriateness of a life recidivist sentence under our constitutional proportionality provision found in Article III, Section 5, will be analyzed as follows: We give initial emphasis to the nature of the final offense which triggers the recidivist life sentence, although consideration is also given to the other underlying convictions. The primary analysis of these offenses is to determine if they involve actual or threatened violence to the person since crimes of this nature have traditionally carried the more serious penalties and therefore justify application of the statute.' Syllabus Point 7, *State v. Beck*, 167 W. Va. 830, 286 S.E.2d 234 (1981).").

Dukes v. Ames, No. 21-0324, 2022 WL 1693676, at *6 (W. Va. May 26, 2022) (memorandum decision) ("[P]etitioner's conviction for felony possession of a deadly weapon by a prohibited person unquestionably involves a serious crime that endangers the public and carries an inherent threat of violence." (internal quotation marks omitted)). Second, Mr. Valentine concedes that strangulation, West Virginia Code § 61-2-9d, is a qualifying offense. Its statutory elements — knowingly restricting another person's breathing or blood flow, causing bodily injury or loss of consciousness — plainly involve actual violence, even though this Court has not previously analyzed strangulation by name under *Hoyle*. Third, this Court has squarely held that fleeing from an officer in a vehicle under West Virginia Code § 61-5-17(f) constitutes a violent felony for purposes of the proportionality clause. *See Horton*, 248 W. Va. at 48, 886 S.E.2d at 516 (stating that the defendant's conviction for fleeing in a vehicle with reckless indifference for the safety of others "without question" involved a threat of violence).

Accordingly, because the triggering offense involved a threat of violence, and the two predicate felonies involved either threatened violence, actual violence, or harm to a victim, the *Hoyle* threshold is satisfied. Therefore, we conclude that the life recidivist sentence imposed by the circuit court is not constitutionally disproportionate under Article III, Section 5.

IV. CONCLUSION

For the foregoing reasons, the Circuit Court of Marion County's September 26, 2023, sentencing order is affirmed.

Affirmed.