FIFTH DIVISION
BARNES, P. J.,
MERCIER, P. J., and MARKLE, J.

NOTICE: Motions for reconsideration must be received no later than 4:30 pm on the 10th day after the decision was issued to be deemed timely filed.
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October 29, 2026

In the Court of Appeals of Georgia

A26A1561. ALLEN v. THE STATE.

MERCIER, Presiding Judge.

Following the dismissal of his motion to vacate a void sentence, Marty Allen, acting pro se, appeals, contending that the trial court erred in its determination that he failed to raise a colorable claim that his sentence for child molestation was illegal and should be reduced. For the reasons set forth below, we affirm.

In relevant part, the record shows that Allen was convicted for two counts of child molestation in 2019. Allen was initially sentenced on May 20, 2019, but that sentence was modified three times – on July 31, 2019, April 12, 2024, and December

10, 2024. In the last modification, the trial court sentenced Allen to an aggregate of twenty years, with ten years of imprisonment followed by ten years of probation.[1]

On October 29, 2025, Allen filed a pro se "Motion to Correct Illegal Sentence." In this motion, Allen argued that OCGA § 17-10-6.2(b) required that the trial court sentence him to no more than the mandatory *minimum* amount of imprisonment applicable to the offense of child molestation (5 years) and that, because the trial court exceeded this amount, his sentence was void. In addition, Allen contended that he should be resentenced, with his sentence being reduced to the mandatory minimum. On January 29, 2026, the trial court ruled that it lacked jurisdiction and dismissed Allen's motion for failure to state a colorable claim that his sentence was void. This appeal followed.

The trial court was correct in finding that the argument made by Allen to support his request for a reduction in his sentence was fundamentally incorrect. "A sentence is only void when the trial court imposes a punishment that the law does not allow." *Ward v. State*, 299 Ga. App. 63, 64 (682 SE2d 128) (2009) (punctuation

[1] Specifically, the trial court sentenced Allen to ten years imprisonment followed by ten years of probation on the first count of child molestation. On the second count, the trial court sentenced Allen to ten years imprisonment followed by ten years of probation, to run concurrently with the first count.

omitted). This may occur "because [the sentence] exceeds the most severe punishment for which the applicable penal statute provides." *von Thomas v. State*, 293 Ga. 569, 572(2) (748 SE2d 446) (2013). Allen's sentence does not suffer from any such infirmity.

Resolution of this appeal rests mainly on two statutes. The first, OCGA § 16-6-4(b)(1) (2009) provides: "[A] person convicted of a first offense of child molestation shall be punished by imprisonment for not less than five nor more than 20 years and shall be subject to the sentencing and punishment provisions of Code Sections 17-10-6.2 and 17-10-7."[2] In turn, OCGA § 17-10-6.2(b) (2017) states:

> [A]ny person convicted of a sexual offense shall be sentenced to a split sentence which shall include the minimum term of imprisonment specified in the Code section applicable to such sexual offense. No portion of the mandatory minimum sentence imposed shall be suspended, stayed, probated, deferred, or withheld by the court. Any such sentence shall include, in addition to the mandatory term of imprisonment, an additional probated sentence of at least one year; provided, however, that when a court imposes consecutive sentences for sexual offenses, the requirement that the court impose a probated sentence of at least one year shall only apply to the final consecutive sentence imposed.

[2] Allen concedes that his sentence falls within this range.

Allen now repeats the same argument that he raised below – he maintains that OCGA § 17-10-6.2(b) (2017) required the trial court to sentence him *only* to the mandatory minimum punishment for child molestation (5 years) plus one year of probation. This interpretation, however, has no precedential support.

We have explained that OCGA § 17–10–6.2(b) "authorizes the trial court to issue a split sentence that includes *at least* five years of imprisonment and at least one year of probation, for a total of no more than twenty years." *Clark v. State*, 328 Ga. App. 268, 270(1) (761 SE2d 826) (2014) (emphasis added). See also *Watkins v. State*, 336 Ga. App. 145, 152(5) (784 SE2d 11) (2016) (same); *Barton v. State*, 338 Ga. App. 524, 525-26 (790 SE2d 538) (2016) ("In this case, the underlying offenses were two counts of sexual battery, including one count against a child under the age of sixteen, OCGA § 17–10–6.2 required the trial court to impose a split sentence that included a mandatory minimum sentence of at least five years of imprisonment and at least one year of supervised probation."); *Spargo v. State*, 332 Ga. App 410, 411 (773 SE2d 35) (2015) ("Thus, for a first conviction for child molestation, a trial court must impose a split sentence that includes at least five years of imprisonment and at least one year of probation, for a total of no more than twenty years." (quotation marks omitted));

Holmes v. State, 375 Ga. App. 470, 481(3) (916 SE2d 500) (2025) ("OCGA § 17-10-6.2 authorizes [a] trial court to issue a split sentence that includes at least five years of imprisonment and at least one year of probation, for a total of no more than twenty years.") (quotation marks omitted). In short, OCGA § 17–10–6.2(b) governs the *composition* of the sentence imposed, not the appropriate *sentencing range* for the offense committed.

Here, the trial court sentenced Allen to an aggregate of twenty years – ten years of imprisonment and ten years of probation. This sentence is allowed by law and statute, and, contrary to Allen's interpretation, it is not void. Therefore, Allen's motion to vacate a void sentence was properly dismissed. See *Kimbrough v. State*, 325 Ga. App. 519, 522(1) (754 SE2d 109) (2014).

Judgment affirmed. Barnes, P. J., and Markle, J., concur.