RECORD IMPOUNDED

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3179-21

STATE OF NEW JERSEY,

Plaintiff-Respondent,

v.

MICHAEL J. VANDENBERG,
a/k/a MICHAEL VANDENBERG,

Defendant-Appellant.

Argued September 29, 2022 – Decided November 30, 2022

Before Judges Vernoia, Firko and Natali.

On appeal from an interlocutory order of the Superior Court of New Jersey, Law Division, Camden County, Indictment No. 02-04-1287.

Mary Claire Wolf, Assistant Deputy Public Defender, argued the cause for appellant (Joseph E. Krakora, Public Defender, attorney; Mary Claire Wolf, on the briefs).

Jason Magid, Assistant Prosecutor, argued the cause for respondent (Grace C. MacAulay, Camden County Prosecutor, attorney; Jason Magid, of counsel and on the brief).

PER CURIAM

When an accused is found not guilty by reason of insanity (NGRI), the criminal proceedings terminate "unless the accused remains mentally ill and in need of involuntary commitment." In re W.K., 159 N.J. 1, 4 (1999). Following a NGRI verdict, "the accused can be involuntarily committed[,]" and thereafter the court must conduct "periodic review hearings[,]" known as Krol[1] hearings, "to determine if continued involuntary commitment is warranted." Ibid.

N.J.S.A. 2C:4-8(b)(3) governs the commitment of individuals found NGRI. Ibid. In pertinent part, the statute provides that a "defendant's continued commitment, under the law governing civil commitment, shall be established by a preponderance of the evidence, during the maximum period of imprisonment that could have been imposed, as an ordinary term of imprisonment, for any charge on which defendant has been acquitted by reason of insanity." N.J.S.A. 2C:4-8(b)(3) (emphasis added). Our Supreme Court has explained "the most reasonable understanding of [N.J.S.A. 2C:4-8(b)(3)] is that in cases involving multiple offenses," a defendant found NGRI "may remain under [Krol] commitment for the maximum ordinary aggregate terms that defendant would have received if convicted of the offenses charged, taking into account the usual

[1] State v. Krol, 68 N.J. 236 (1975).

principles of sentencing." W.K., 159 N.J. at 6. Since 1996, courts ordering Krol commitments have been required to set forth in the "[sentencing] judgment" "the maximum sentence that could have been imposed for any charge on which the defendant has been acquitted by reason of insanity." Id. at 5 (quoting Administrative Directive #9-96, "Krol Commitments" (Dec. 3, 1996)) (alteration in original).[2]

Following a 2002 bench trial on murder and weapons charges, the court found Michael J. Vandenberg NGRI and entered a judgment of acquittal under N.J.S.A. 2C:4-8(b)(3), stating a maximum ordinary term of life imprisonment could have been imposed had Vandenberg been convicted of murder. Vandenberg appeals from a 2021 order denying his motion to modify the judgment. He claims the motion court erred by failing to modify the judgment to show the maximum term of imprisonment that could have been imposed had

[2] Administrative Directive #9-96 was superseded effective August 5, 2020 by Administrative Directive #21-20, "Criminal – Procedures for Defendants Found Not Guilty by Reason of Insanity (NGRI) and Other Commitments Resulting from Criminal Proceedings (Krol Orders)" (Aug. 5, 2020). Administrative Directive #21-20 also requires that trial judges "include the maximum period of imprisonment that could have been imposed pursuant to [N.J.S.A. 2C:4-8b(3)]." Administrative Directive #21-20, "Criminal – Procedures for Defendants Found Not Guilty by Reason of Insanity (NGRI) and Other Commitments Resulting from Criminal Proceedings (Krol Orders)" (Aug. 5, 2020).

he been convicted of murder in 2002 was thirty years. Unpersuaded by the arguments supporting Vandenberg's claim, we affirm.

I.

In 2002, a grand jury charged Vandenberg with the first-degree knowing and purposeful murder of his father, N.J.S.A. 2C:11-3(a)(1); two counts of third-degree possession of a weapon for an unlawful purpose, N.J.S.A. 2C:39-4(d); and two counts of fourth-degree possession of a weapon for an unlawful purpose, N.J.S.A. 2C:29-5(d).

In an order entered following a bench trial, the court found Vandenberg "suffers from a mental disease, schizophrenia paranoid type, and consequently, did know the nature and quality of his actions but as a result of his delusional thinking he did not know his actions were wrong." The court also found Vandenberg NGRI, determined Vandenberg "poses a danger to himself and to others," and ordered Vandenberg's confinement "at the Ann Klein Forensic Center as is required pursuant to N.J.S.[A.] 2C:4-8 and [Krol]."

In an accompanying judgment of acquittal dated July 30, 2002, the court ordered Vandenberg placed on "[Krol] status." The judgment included the court's determination that, had Vandenberg been convicted of the charges, the weapons offenses would merge with the murder conviction, and "the maximum

sentence that could have been imposed . . . had he not been found 'not guilty by reason of insanity' is life imprisonment."

Vandenberg has remained on Krol status since entry of the judgment. In 2021, he moved to modify the judgment to reflect that the maximum term to which he could have been sentenced if convicted of murder in 2002 was "thirty years," and not "life imprisonment." After hearing argument, the court found N.J.S.A. 2C:4-8(b)(3) did not support Vandenberg's request for relief because the maximum ordinary term that could have been imposed had he been convicted of murder in 2002 was life. See N.J.S.A. 2C:11-3(b)(1) (2002) (providing in part, "a person convicted of murder shall be sentenced . . . to a term of [thirty] years, during which the person shall not be eligible for parole, or . . . to a specific term of years which shall be between [thirty] years and life imprisonment"). The court also rejected Vandenberg's claim that utilizing the life sentence for murder set forth in N.J.S.A. 2C:11-3(b)(1) as the maximum period for his Krol commitment under N.J.S.A. 2C:4-8(b)(3) violates Article IV, Section VII, Paragraph 5 of the New Jersey Constitution and his right to equal protection of laws.

The court entered an order denying Vandenberg's motion to modify the July 30, 2002 judgment of acquittal, and this appeal followed. Vandenberg presents the following arguments for our consideration:

> POINT I
>
> THE TRIAL COURT ERRED WHEN IT VIEWED [N.J.S.A. 2C:4-8(b)(3)] AS INCORPORATING NEW JERSEY SENTENCING LAW GENERALLY AS IT REFERENCES THE HOMICIDE STATUTE SENTENCING SUBSECTION SPECIFICALLY.
>
> a. The reference in the [Krol] [s]tatute to the [h]omicide [s]tatute is governed by the rules of statutory incorporation.
>
> b. The [Krol] [s]tatute's reference to the [h]omicide [s]tatute's sentencing provision is specific, not general, as it is a reference to only one line of the [h]omicide [s]tatute.
>
> c. The [Krol] [s]tatute's reference to the [h]omicide [s]tatute is specific as other features of New Jersey sentencing laws do not apply to NGRI committees.
>
> d. Because the [Krol] [s]tatute's reference to the [h]omicide [s]tatute is specific, the maximum ordinary term of commitment must be [thirty] years.
>
> POINT II
>
> THE [KROL] STATUTE'S REFERENCE TO THE HOMICIDE STATUTE IS SPECIFIC OR IT IS UNCONSTITUTIONAL UNDER ARTICLE IV, SECTION VII, PARAGRAPH 5 OF THE NEW JERSEY CONSTITUTTION [sic].

POINT III

THE TRIAL COURT ERRED WHEN IT CONCLUDED THAT [VANDENBERG] MUST BE COMMITTED OR SUPERVISED FOR A LIFE TERM, IF HE CONTINUES TO PRESENT A DANGER, WHEN THE TRIAL COURT SHOULD HAVE FOUND THAT THE [KROL] STATUTE IS UNCONSTITUTIONAL ON ITS FACE AND AS APPLIED TO [VANDENBERG].

II.

Vandenberg's arguments raise issues of statutory interpretation that we review de novo. Kocanowski v. Twp. of Bridgewater, 237 N.J. 3, 9 (2019). We similarly conduct a de novo review of a challenge to the constitutionality of N.J.S.A. 2C:4-8(b)(3). State v. Hemenway, 239 N.J. 111, 125 (2019).

Vandenberg first argues the court erred in 2002 by finding under N.J.S.A. 2C:4-8(b)(3) that life was "the maximum period of imprisonment that could have been imposed, as an ordinary term, for" the murder charge "on which [he was] acquitted by reason of insanity." He argues that when the Legislature enacted N.J.S.A. 2C:4-8(b)(3) in 1978, L. 1978, c. 95, § 2C:4-8, the maximum ordinary term of imprisonment for an individual convicted of murder was thirty years, see L. 1978, c. 95, § 2C:11-3(b) (providing the maximum ordinary term of imprisonment for first-degree murder "shall be [thirty] years").

Vandenberg recognizes that, by the time he was charged with murder in 2001, and found NGRI in 2002, the maximum period of incarceration for first-degree murder under N.J.S.A. 2C:11-3(b) had been increased to life, see L. 1985, c. 478, § 1. Nonetheless, he contends that, for purposes of determining under N.J.S.A. 2C:4-8(b)(3) the maximum period of imprisonment that could have been imposed for murder, the court was required to apply the maximum sentence for murder—thirty years—under the murder statute, N.J.S.A. 2C:11-3(b), as it existed in 1978, when the Legislature enacted N.J.S.A. 2C:4-8(b)(3).

In support of his contention, Vandenberg relies on the principle that, "when a statute incorporates another by specifically referring to it by title or section number, only the precise terms of the incorporated statute as it then exists become part of the incorporating statute[.]" In re Commitment of Edward S., 118 N.J. 118, 132 (1990). Where that specificity is included, and "absent language to the contrary, subsequent amendments to the incorporated statute have no effect on the incorporating statute." Ibid.

Vandenberg claims the 1978 version of N.J.S.A. 2C:4-8(b)(3) made "specific reference" to the 1978 version of the then-extant homicide statute, N.J.S.A. 2C:11-3(b), which, as noted, provided a maximum sentence of thirty years for murder. Vandenberg therefore claims the 1985 amendment to N.J.S.A.

2C:11-3(b), which increased the maximum ordinary term of a murder conviction to life imprisonment, "ha[d] no effect on the incorporating statute," N.J.S.A. 2C:4-8(b)(3), and did not modify what he asserts was the specific reference in N.J.S.A. 2C:4-8(b)(3) to the sentencing provisions of the 1978 version of N.J.S.A. 2C:11-3(b).

Stated differently, he contends the 1985 modification of the homicide statute, increasing the maximum ordinary term of imprisonment for murder to life, did not amend the "specific reference" to the homicide statute in N.J.S.A. 2C:4-8(b)(3), and, as a result, the 1985 amendment to N.J.S.A. 2C:11-3(b) had no effect on the incorporating statute, N.J.S.A. 2C:4-8(b)(3). Vandenberg therefore argues the court in 2002 erred by failing to find under N.J.S.A. 2C:4-8(b)(3) that the maximum ordinary term of imprisonment, which could have been imposed had he been found guilty of murder, was the thirty-year maximum sentence for murder in effect in 1978 when the Legislature enacted N.J.S.A. 2C:4-8(b)(3).

We reject Vandenberg's claim because the legal principle upon which he relies has no application where, as here, the incorporating statute does not "cite to the precise provision being incorporated." Goldfarb v. Solimine, 245 N.J. 326, 347 (2021). That is, for the principle upon which Vandenberg relies to

apply, the incorporating statute must "specifically refer[]" to the alleged incorporated statute "by title or section number[.]" Edward S., 118 N.J. at 132; accord 2B Norman Singer & Shambie Singer, Sutherland Statutory Construction (Sutherland), § 51:7 (7th ed. 2021) (explaining a "specific reference, as the name suggests, refers specifically to a particular statute by its title or section number").

That is not the case here. Despite his repeated claims the 1978 version of N.J.S.A. 2C:4-8(b)(3) makes "specific reference" to the 1978 version of the homicide statute, the simple fact is that neither the 1978 version of N.J.S.A. 2C:4-8(b)(3), nor any subsequent version, has ever specifically cited the homicide statute, N.J.S.A. 2C:11-3, or any other particular sentencing statute. See Goldfarb, 245 N.J. at 347; Edward S., 118 N.J. at 132.

Where "a statute, instead of incorporating the terms of another statute, incorporates a general body of law, the rule is that subsequent changes in that body of law do become part of the incorporating statute." Ibid.; see also Sutherland § 51:7 ("A general incorporation includes subsequent amendment, and a specific incorporation does not."). Here, the 1978 version of N.J.S.A. 2C:4-8(b)(3) broadly provided a defendant found NGRI shall be committed to Krol status "for an indeterminate term not to exceed the maximum term of

imprisonment provided by law for the crime of which the defendant has been acquitted." L. 1978, c. 95, § 2C:4-8. Thus, because the 1978 version of N.J.S.A. 2C:4-8(b)(3) did not make specific reference to the title or section number of any then-existing law, and instead referred only to the general body of law defining the maximum term of imprisonment that could have been imposed for the crimes for which a defendant is found NGRI, changes in that general body of law, including changes in the maximum sentence that could be imposed for murder, became part of the incorporating statute, N.J.S.A. 2C:4-8(b)(3). Edward S., 118 N.J. at 132. We reject Vandenberg 's claims to the contrary.

We also observe the language in the 1978 version of N.J.S.A. 2C:4-8(b)(3) mandating the court determine "the maximum term of imprisonment provided by law for the crime of which the defendant has been acquitted" was removed in a 1979 amendment. See L. 1979, c. 178, § 15. As such, the language in the 1978 version of N.J.S.A. 2C:4-8(b)(3) upon which Vandenberg relies had no application in 2001 when the alleged crimes for which he was found NGRI were committed.

In 1981, the Legislature amended N.J.S.A. 2C:4-8(b)(3), adding the following language: "[t]he defendant's continued commitment, under the law governing civil commitment, shall be established by a preponderance of the

evidence, during the maximum period of imprisonment that could have been imposed, as an ordinary term of imprisonment, for any charge on which the defendant has been" found NGRI. L. 1981, c. 290, § 9. It is this version of N.J.S.A. 2C:4-8(b)(3), and not the 1978 version, that governed the court's determination of Vandenberg's maximum Krol commitment term in 2002.

At the time of the 1981 amendment to N.J.S.A. 2C:4-8(b)(3), the maximum period of imprisonment that could have been imposed as an ordinary term for a murder conviction was thirty years. N.J.S.A. 2C:11-3(b) (1981). And, as noted, it was not until 1985 that the Legislature amended N.J.S.A. 2C:11-3(b), increasing the maximum ordinary term of imprisonment for a murder conviction to life. L. 1985, c. 478, § 1.

In any event, even though Vandenberg incorrectly relies on the 1978 version of N.J.S.A. 2C:4-8(b)(3) as the basis for his claim the court in 2002 was bound to set his Krol commitment term at thirty years pursuant to the 1978 version of the homicide statute, for the reasons we have explained, we reject any claim the court in 2002 was required to set Vandenberg's Krol commitment based on the homicide statute extant when the Legislature enacted the 1981 version of N.J.S.A. 2C:4-8(b)(3). The 1981 version of N.J.S.A. 2C:4-8(b)(3) did not include a specific reference "by title or section number" to the homicide

statute and, for that reason alone, it did not incorporate the 1981 version of N.J.S.A. 2C:11-3(b). See Goldfarb, 245 N.J. at 347; Edward S., 118 N.J. at 132 The court in 2002 was therefore required to consider the amendments to the body of sentencing law generally referenced in the 1981 version of N.J.S.A. 2C:4-8(b)(3), including the 1985 amendment to the homicide statute, in determining Vandenberg's Krol commitment term.

Although we reject Vandenberg's contention the court in 2002 was obligated to determine his Krol commitment term based on the sentencing requirements extant when N.J.S.A. 2C:4-8(b)(3) was enacted, we also consider whether the motion court otherwise correctly determined the Krol commitment term in the 2002 judgment comports with the statute's requirements. Our consideration of the issue is guided by fundamental principles of statutory construction.

"The overriding goal of all statutory interpretation 'is to determine as best we can the intent of the Legislature, and to give effect to that intent.'" State v. S.B., 230 N.J. 62, 67 (2017) (quoting State v. Robinson, 217 N.J. 594, 604 (2014)). We consider "the statute's language and give those terms their plain and ordinary meaning because 'the best indicator of that intent is the plain language chosen by the Legislature.'" State v. J.V., 242 N.J. 432, 442-43 (2020)

(citation omitted) (quoting Johnson v. Roselle EZ Quick, LLC, 226 N.J. 370, 386 (2016)). "If, based on a plain and ordinary reading of the statute, the statutory terms are clear and unambiguous, then the interpretative process ends, and we 'apply the law as written.'" Id. at 443 (quoting Murray v. Plainfield Rescue Squad, 210 N.J. 581, 592 (2012)). A court will not recast a plainly written statute or "presume . . . the Legislature intended something other than that expressed by way of the plain language." Id. (quoting O'Connell v. State, 171 N.J. 484, 488 (2002)). It is only where "the plain language is ambiguous" that a court may consider "extrinsic interpretative aids, including legislative history[,]" to determine a statute's meaning. Id. (quoting S.B., 230 N.J. at 68).

We find no ambiguity in the plain language of N.J.S.A. 2C:4-8(b)(3). As noted, the statute provides a defendant's Krol commitment period is the "maximum period of imprisonment that could have been imposed, as an ordinary term of imprisonment, for any charge on which the defendant has been acquitted by reason of insanity." N.J.S.A. 2C:4-8(b)(3); see also W.K., 159 N.J. at 6; In re Commitment of M.M., 377 N.J. Super. 71, 78 (App. Div. 2005) (emphasis in original) (quoting N.J.S.A. 2C:4-8(b)(3)) (explaining the "'[maximum period of imprisonment that could have been imposed]' establishes the measure of the maximum commitment" on Krol status under N.J.S.A. 2C:4-8(b)(3)).

Vandenberg does not dispute that, had he been convicted of murder in 2002, the maximum term of imprisonment that could have been imposed was life. See N.J.S.A. 2C:11-3(b). And, in accordance with N.J.S.A. 2C:4-8(b)(3)'s plain language, the Court's holding in W.K., and the requirements of Administrative Directive #9-96, the court in 2002 entered judgment finding the maximum period of incarceration to which Vandenberg could have been sentenced if convicted was life. The court's determination was made in strict compliance with N.J.S.A. 2C:4-8(b)(3) and established the maximum period of Vandenberg's Krol commitment term.[3] The motion court therefore correctly denied Vandenberg's request to modify the 2002 judgment.

Vandenberg also argues that, if N.J.S.A. 2C:4-8(b)(3) generally incorporates the homicide statute's sentencing requirements, it then violates Article IV, Section VII, paragraph 5 of the New Jersey Constitution, which states: "[n]o act shall be passed which shall provide that any existing law, or any

[3] The court's finding does not permit or require maintenance of Vandenberg on Krol status during the life term which constituted the maximum ordinary term that could have been imposed had he been convicted of murder. As we explained in M.M., "[Krol] status defendant[s] may be released at a date earlier than the maximum term if the State fails to carry its burden," 377 N.J. Super. at 78, of demonstrating "at the periodic [Krol] hearings," ibid., that they "continue[] to be a danger to [themselves] or others," id. at 77. "Alternatively, . . . [Krol] status defendant[s] may be committed for longer than the ordinary maximum term if the court finds that [they] remain[] a danger to [themselves] or others." Ibid.

part thereof, shall be made or deemed a part of the act or which shall enact that any existing law, or any part thereof, shall be applicable, except by inserting in such act." We are not persuaded.

Article IV, Section VII, paragraph 5 prohibits "the enactment of laws which incorporate the provision of other laws without inserting the incorporating language into the legislation." Princeton Twp. v. Bardin, 147 N.J. Super. 557, 567 (App. Div. 1977). "The purpose of this provision . . . is for the 'suppression of deceptive and fraudulent legislation, the purpose and meaning of which [can] not be discovered either by the legislature or the public without an examination of and a comparison with other statutes.'" Id. at 568 (alteration in original) (quoting Jersey City v. Martin, 127 N.J.L. 18, 23 (E. & A. 1940)).

The provision "'constitutes a limitation upon the exercise of legislative power, and it is for that reason to be strictly construed.'" Bucino v. Malone, 12 N.J. 330, 349 (1953) (quoting Jersey City, 127 N.J.L. at 23). Where the reference to other laws in a statute "is not to 'affect or qualify the substance of the legislation or vary the terms of the act,' but is 'merely for the formal execution of the law,' it is not within the [constitutional] prohibition." Ibid. (quoting Jersey City, 127 N.J.L. at 23). Similarly, "[a] statute which incorporates a prior act by reference in order to create some substantive right or

duty offends against the Article. But one which adopts by reference only the method of procedure necessary to effectuate its purposes is not prohibited." Port of N.Y. Auth. v. Heming, 34 N.J. 144, 153 (1961); see also Edward S., 118 N.J. at 132 n.6.

Vandenberg does not claim N.J.S.A. 2C:4-8(b)(3), and its general reference to the maximum ordinary term of imprisonment he would have received if convicted at trial, constitutes "deceptive and fraudulent" legislation of the type that Article IV, Section VII, paragraph 5 is intended to prohibit. Princeton Twp., 147 N.J. Super. at 568 (quoting Jersey City, 127 N.J.L. at 23). Moreover, the statute's reference to the periods of incarceration a defendant could have received does not create a substantive right or duty. To the contrary, it provides the procedural mechanism necessary to effectuate the statute's clear purpose—the court's determination of the Krol commitment term for defendants, like Vandenberg, who have been found NGRI. See N.J.S.A. 2C:4-8(b)(3). The statute therefore is not violative of Article IV, Section VII, paragraph 5. Heming, 34 N.J. at 153; see also State v. Cruz, 76 N.J. Super. 325, 328 (App. Div. 1962) (quoting Eggers v. Kenny, 15 N.J. 107, 124 (1965)) (explaining an "'act [that] properly embodies complete legislation in itself . . . may refer to

auxiliary laws on the subject without violating'" Article IV, Section VII, paragraph 5).

We also find no merit in Vandenberg's equal protection claims. He argues individuals found NGRI of murder do not have the same opportunity for parole after thirty years, or a sentence as low as thirty years, that an individual convicted of murder has under N.J.S.A. 2C:11-3(b). He contends that "[t]reating the homicide prison inmate and [an individual found NGRI of murder] in these disparate ways does not have a rational basis for at least one reason: [an individual found NGRI of murder] can receive treatment and the public can be protected by virtue of committing the [individual] civilly under N.J.S.A. 30:4-17.1 et seq. at the conclusion of their [thirty]-year term."

"The constitutional requirement of equal protection is met by legislation which treats in a like or similar manner all persons within a class reasonably selected." Mason v. Civil Serv. Comm'n, 51 N.J. 115, 128 (1968); see also Krol, 68 N.J. at 253 ("Constitutional principles of equal protection . . . do not require that all persons be treated identically" but instead "require only that any differences in treatment be justified by an appropriately strong state interest."). Because individuals found NGRI are not members of a suspect class and no fundamental constitutional right is impinged by setting a Krol commitment term

in accordance with N.J.S.A. 2C:4-8(b)(3), Vandenberg's equal protection argument succeeds only if "the relationship between the permissible goal and classification is so attenuated as to be arbitrary or irrational." In re Wheeler, 433 N.J. Super. 560, 619 (App. Div. 2013) (quoting City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432, 446-47 (1985)). That is not the case here.

The State's interest in enforcing the Krol statute, N.J.S.A. 2C:4-8(b)(3), in addition to protecting the community and Krol committees themselves from the danger they pose by reason of insanity, includes preserving the public's confidence in the criminal justice system as the institution responsible for committing NGRI acquittees. Edward S., 118 N.J. at 149. The State's interest in preserving public confidence in the judiciary and in protecting the community and individuals found NGRI from the dangerousness presented by their insanity, see id. at 149, provides a rational basis for the purported difference in treatment between those individuals and defendants convicted of crimes. As the Court explained in Krol, "[t]he rationale for involuntarily committing such persons . . . is to protect society against individuals who, through no fault of their own, pose a threat to public safety." 68 N.J. at 249.

An individual who is found NGRI stands in a wholly different position than a person convicted of a crime. "Commitment following acquittal by reason

of insanity is not intended to be punitive, for, although [a NGRI] verdict implies a finding that [the] defendant has committed the actus reus, it also constitutes a finding that he did so without a criminal state of mind." Id. at 246. Thus, unlike an individual convicted of a crime, for a person found NGRI, "[t]here is, in effect, no crime to punish." Ibid. Instead, the standard for the release of a person found NGRI is whether they are dangerous to themselves or others. Ibid. Additionally, unlike a person who is convicted of murder and sentenced to a minimum period of incarceration of thirty years, a person found NGRI may be released at any time after a court determines they are no longer a danger to themselves and others. See generally State v. Fields, 77 N.J. 282-83 (1978) (explaining periodic reviews of the commitment of persons found NGRI); see also M.M., 377 N.J. Super. at 77-78.

In sum, because the classification in N.J.S.A. 2C:4-8(b)(3) of individuals found NGRI is "rationally related to a legitimate governmental purpose[,]" Barone v. Dep't of Human Servs., Div. of Med. Assistance & Health Servs., 107 N.J. 355, 367 (1987), of ensuring the protection of the public and the person found NGRI from the dangers presented by their insanity, we reject Vandenberg's claim the statute violates his right to equal protection of the laws.

To the extent we have not expressly addressed any other arguments made on Vandenberg's behalf, we have determined they are without sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(2).

Affirmed.

I hereby certify that the foregoing is a true copy of the original on file in my office.

CLERK OF THE APPELLATE DIVISION