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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MANDY MARIE BENN,

Defendant-Appellant.

UNPUBLISHED
August 18, 2026
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No. 369335
Ionia Circuit Court
LC No. 2022-018675-FC

Before: BOONSTRA, P.J., and YOUNG and KOROBKIN, JJ.

BOONSTRA, P.J. (*concurring in part and dissenting in part*).

I concur with the majority in affirming defendant's convictions. But I would also affirm defendant's sentences because the trial court articulated sufficient reasons to order that defendant's two second-degree murder convictions run consecutively, and because it did not abuse its discretion in doing so. I therefore respectfully dissent from the majority's decision to remand for resentencing (to concurrent terms) or for further articulation of the trial court's rationale for imposing consecutive sentences.

The Legislature has explicitly authorized trial courts to impose consecutive terms of imprisonment when multiple second-degree murder convictions arise from a motor vehicle accident. MCL 769.36(1)(b). We therefore review for an abuse of discretion the trial court's decision to impose consecutive sentences under that statute. See *People v Norfleet*, 317 Mich App 649, 664; 897 NW22d 195 (2016). Although the majority relies on *Norfleet*, its substantive holding has limited application here. In *Norfleet*, the defendant was convicted of seven drug-related offenses arising from several drug sales to multiple buyers, while acting in concert with other offenders. *Id*. at 654. The trial court ordered that the sentences for the first five counts be served consecutively, but it did not explain its reasoning. Instead, it "spoke only in general terms, stating that it took into account defendant's 'background, his history, [and] the nature of the offenses involved.' Moreover, it did not speak separately regarding each consecutive sentencing, each of which represents a separate exercise of discretion." *Id*. at 657, 666. This Court remanded for the trial court to "fully articulate its rationale for each consecutive sentence imposed":

> Review of a discretionary decision requires that the trial court set forth the reasons underlying its decision. . . . [A] trial court may not impose multiple consecutive sentences as a single act of discretion nor explain them as such. The decision regarding each consecutive sentence is its own discretionary act and must be separately justified on the record. . . . Moreover, this is in accordance with the Supreme Court's statements that Michigan has a "clear preference for concurrent sentencing" and that the "[i]mposition of a consecutive sentence is strong medicine." *People v Chambers*, 430 Mich 217, 229, 231; 421 NW2d 903 (1988) (quotation marks and citation omitted). While imposition of more than one consecutive sentence may be justified in an extraordinary case, trial courts must nevertheless articulate their rationale for the imposition of each consecutive sentence so as to allow appellate review. . . . Additionally, we believe that requiring trial courts to justify each consecutive sentence imposed will help ensure that the "strong medicine" of consecutive sentences is reserved for those situations in which so drastic a deviation from the norm is justified. [*Id*. at 664-665.]

The majority remands for the trial court "to either articulate its rationale for imposing consecutive sentences or resentence defendant to serve those terms concurrently." But the trial court provided significant reasoning for its sentence, enough to facilitate appellate review and to demonstrate why it believed that this was one of those cases in which consecutive sentencing is justified. The trial court noted the overwhelming evidence at trial and stated that although driving under the influence of drugs was "a very common occurrence," this case had one of the "most serious" outcomes that the court had ever seen. It also noted that defendant had ignored multiple "red flags" throughout the day that should have indicated to her that she was too intoxicated to drive, such as her inability to navigate a restaurant drive-through or to pump gas properly, as well as a gas-station employee's inquiries about her health. It emphasized that she showed a "disturbing" lack of remorse and minimized the extent of her prescription and nonprescription drug use. The court also addressed defendant's criminal history, noting that she had been convicted of a similar crime in the past and that she had clearly not benefited from previous attempts to rehabilitate her from her narcotics addiction. It heavily emphasized the need to protect the public from defendant's reckless behavior, referencing multiple examples of other defendants who were released on parole, tested positive for controlled substances but remained out of custody, and who then went on to operate a vehicle while intoxicated, causing the death of other victims. The trial court did not believe that parole would adequately protect the public and hoped that defendant's sentence would also deter others from committing similar crimes.

The trial court's stated rationale was far more detailed and particularized than the reasons articulated in *Norfleet*, in which the trial court merely stated that it had considered the defendant's "background, his history, [and] the nature of the offenses involved." *Id*. at 666 (quotation marks omitted, alteration in original). Moreover, in this case, the trial court imposed only one sentence consecutive to another, as opposed to the five consecutive sentences imposed in *Norfleet*. Unlike in *Norfleet*, the trial court in this case therefore did not impose "multiple consecutive sentences"; it instead exercised only a single act of discretion, imposing one term consecutive to the other.

In *Norfleet*, 317 Mich App at 665, proper appellate review required the trial court to separately articulate the reasoning for its sentences, including why the sentences were consecutive,

because the convictions arose from multiple drug-related offenses involving multiple individuals at multiple locations at multiple times. It was therefore necessary to distinguish between each crime rather than treating them as a single group. See also *People v Hines*, ___ Mich App ___, ___; ___ NW3d ___ (2025); slip op at 15-17 (similarly requiring that the trial court to articulate its reasoning for ordering that the defendant's drug-related convictions be served consecutively with his sentences on unrelated convictions from a separate case). In this case, however, distinguishing between defendant's two second-degree murder convictions is unnecessary because a single act (driving into a line of bicyclists while intoxicated) caused both deaths. It was therefore appropriate for the trial court to address the criminal transaction as a whole when imposing the sentences for the two resulting second-degree murder convictions.[1]

It is unclear what additional reasoning the trial court might provide on remand that is not substantively included in the record the trial court has already provided. Although the trial court did not explicitly state that its reasoning applied to its decision to impose consecutive sentences, the context of the court's ruling makes clear that its stated reasons applied both to the individual sentences and to the decision to impose the two sentences consecutively. The court clearly believed that consecutive sentencing was justified by the egregious nature of the offense and because delaying parole eligibility would ensure that defendant would not reoffend and would encourage others to comply with their own parole requirements. See MCL 791.234(3) (stating that the minimum terms of consecutive sentences are aggregated for the purpose of determining parole eligibility).

The trial court provided a thorough explanation of why it imposed the sentences that it did and why those circumstances justified consecutive terms. This Court does not require an expanded record to properly review the trial court's exercise of its discretion. I would find that the trial court sufficiently articulated its rationale and did not abuse its discretion by imposing consecutive sentences and would affirm defendant's sentences on the existing record.

/s/ Mark T. Boonstra

[1] Notably, the statute permitting consecutive sentencing in this case, MCL 769.36(1), is phrased differently than the statute permitting consecutive sentencing in *Norfleet*, MCL 333.7401(3), which states that "[*a*] *term* of imprisonment imposed under subsection (2)(a) [for certain offenses involving schedule 1 or 2 controlled substances] may be imposed to run consecutively with any term of imprisonment imposed for the commission of another felony." (Emphasis added). The *Norfleet* Court emphasized the use of the singular "*a term*," stating that MCL 333.7401(3) "clearly provides that a discretionary decision must be made as to each sentence and not to them all as a group." *Norfleet*, 317 Mich App at 665. By contrast, MCL 769.36(1) states that "[a] person may be charged with and convicted of any of the following for *each death* arising out of the same criminal transaction, and the court may order *the terms* of imprisonment to be served consecutively to each other . . . ." (Emphasis added). Therefore, unlike in *Norfleet*, the applicable statute in this case allows the trial court to consider the convictions as a group and to impose consecutive sentences as a single act of discretion.