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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED November 06, 2026 9:40 AM
v	No. 375095 Berrien Circuit Court
JOHN HENRY LEWIS, Defendant-Appellant.	LC No. 2022-001714-FH

Before: YOUNG, P.J., and REDFORD and FEENEY, JJ.

YOUNG, P.J., (*concurring*).

I agree with the majority that the trial court did not abuse its discretion in sentencing Mr. Lewis. I write separately to highlight what I identify as a tension between discussions about public safety and individualizing a sentence to the offense and the offender. To be clear, public safety or "the protection of society" has long been considered an appropriate consideration at sentencing. *People v Snow*, 386 Mich 586, 592; 194 NW2d 314 (1972). This case exemplifies how a trial court's consideration of societal "malaise" can at least appear to move the trial court away from a sentence that is sufficiently individualized.

The majority includes the relevant portion of the sentencing transcript in full, but it is worth revisiting the following:

> I think I made some comments at the earlier sentencing and the observations remain the same. Just as to the general degradation of the community of Benton Harbor that takes place as a result of the—the drugs and the drug trafficking. I—the last murder trial I had was a 14 year old murderer. What he and his victim had in common they were heavy marijuana users, very heavy marijuana users. And they liked guns. And I said this when I—I chose under Miller v Alabama[1] not to sentence him to life in prison. I'm sorry [prosecutor] you were on that case.

[1] *Miller v Alabama*, 567 US 460; 132 S Ct 2455; 183 L Ed 2d 407 (2012).

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> I didn't mean to bring it up but I—I was sympathetic to [the prosecutor]'s position requesting life without parole but I—I chose not to. And part of my thinking in that was that individual although it was a cold blooded, horrific, terrible, murder; was raised in the community that has 5 dispense—drug dispensaries in the downtown but not a single grocery store. And so although perhaps [defendant] wasn't—doesn't have dozens of drug convictions he's—he was part of that culture that's lead to just a general degradation of that community. And it's—it's heartbreaking. It's heartbreaking for me to observe, my gosh, a 14 year old [sic] murderer and a 17 year old [sic] victim who's dead, gone forever from his family.
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> Again, it's a completely separate case. I'm not attributing any of that to [defendant] I'm just commenting on the general malaise and—and the drug culture that exists in that community and the need as we say in most every felony sentencing, the purpose of the sentence is punishment, protection of the community, deterrence, reformation, and restitution.

This Court is required to consider "the totality of the sentencing proceedings." *People v Munson*, 109 Mich App 39, 41-42; 310 NW2d 810 (1981). Articulating a rationale for a sentence "aid[s] appellate review and avoid[s] injustice on the basis of error at sentencing." *People v Conley*, 270 Mich App 301, 312-13; 715 NW2d 377 (2006). So even if "just commenting," the above discussion is part of the record. The above excerpt would be less concerning to me if, for example, there were a link between the marijuana smoked by the teenagers convicted of murder and the marijuana Lewis was dealing. But there is not. When, as here, the trial court's articulation at a sentencing includes a discussion of unrelated persons and their (more) grievous criminal actions, it is possible that the delicate balance between consideration of public safety and individualizing the sentence to the offense and offender has been compromised.[2]

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[2] It is worth noting too the unique circumstances of Lewis' sentencing. This was Lewis' second time being sentenced. At his first sentencing, his guidelines were improperly enhanced based on a drug conviction that was not actually part of Lewis' record. The trial court had this to say:

> The reason for the resentence was that Mr. Lewis was sentenced with a supplemental enhancement drug enhancement, as a second offender. And by looking through the file, the records, and pulling the old conviction it was determined that he was not convicted of a drug offense . . . . It was a different Mr. Lewis.

Lewis was granted resentencing because he was sentenced based on inaccurate information; at his first sentencing, he was held to account for someone else's criminal actions. Now, at his resentencing, he is again associated with someone else's criminal actions—although this time it is not a drug offense; it is an unrelated first-degree murder. So, at least on the individual level it is

However, both before and after the trial court detailed the circumstances of the unrelated first-degree murder, the trial court said that it was "not attributing any of that to Mr. Lewis." And again like in *Munson*, Lewis was permitted to speak at length concerning his own rehabilitation; the court considered a presentence report and a thorough mitigation report; and the resultant sentences were not only within the guidelines but several years less than the controlling sentence originally imposed. *Id*. Could another judge have given greater weight to Lewis' lack of prior drug convictions, that the "quantity of drugs delivered was very small," and Lewis' progress while incarcerated, to arrive at a lower sentence? Yes. But that is what the abuse of discretion standard contemplates—more than one reasonable outcome. *People v Babcock*, 469 Mich 247, 269; 666 NW2d 231 (2003). So, ultimately, I agree with my colleagues in the majority that the trial court did not abuse its discretion by sentencing Lewis to a proportionate and reasonable within-guidelines sentence. I write separately, though, in hopes of getting some guidance from the Michigan Supreme Court for our trial courts that are tasked with individualizing sentences in the face of massive societal ills that relate directly to public health and safety.

/s/ Adrienne N. Young

possible that the public safety considerations are lost in Lewis' "double whammy" of being held to account for grievous harms he did not commit.