

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
February 27, 2018

v

JALEN ZAMAR LYONS,
Defendant-Appellant.

No. 336412
Oakland Circuit Court
LC No. 2015-256599-FC

Before: JANSEN, P.J., and SERVITTO and SHAPIRO, JJ.

SHAPIRO, J. (*concurring in part and dissenting in part*).

I concur with the majority opinion on all issues except that of consecutive sentencing. In my view, the trial court did not comply with the requirements defined in *People v Norfleet*, 317 Mich App 649; 897 NW2d 195 (2016), because in imposing a consecutive sentence it “spoke only in general terms.” *Id.* at 666. The only specifics the court noted was that defendant was a fourth-habitual offender at age 23,¹ and that he had not been honest in his testimony. I do not agree that these facts are sufficient to overcome the fact that “ ‘Michigan has a clear preference for concurrent sentencing and that the [i]mposition of a consecutive sentence is strong medicine.’ ” *Norfleet*, 317 Mich App at 665 (quotation marks and citation omitted).

Other than defendant’s habitual status and his failure to accurately recount the crime, the rest of the court’s commentary lacked any specificity. It stated:

Having looked at the record, looked at your priors, read the PSI, I’m satisfied that the following sentences is reasonable and appropriate, serves the purposes of sentencing, protects the public, offers punishment to you for these crimes and will serve as a deterrence to others. And hopefully during that time you’re in prison, it will also accomplish your rehabilitation. . . . While it is discretionary with the Court pursuant to statute, I deem it appropriate that this be a consecutive sentence. I said, I think that you deserve to go to prison for a substantial period of time, and I think this sentence serves the purpose that sentences are supposed to serve.

¹ His three prior convictions were all for delivery of marijuana.

This statement could be given in virtually any sentencing; it recites the general considerations, and that the court believes the sentence to be proper. It contains no specific grounds for imposing a consecutive sentence contrary to *Norfleet* which directs the sentencing judge, if imposing a consecutive sentence, to give “particularized reasons—with reference to the specific offenses and the defendant.” *Norfleet*, 317 Mich App at 665.

I recognize that in this case, the trial court imposed minimum terms for armed robbery and assault with intent to do great bodily harm that were at the bottom of the guidelines. Indeed, the trial court could have imposed the same minimum term by sentencing defendant within the guidelines to a 15 ½ minimum on those charges while making the home invasion sentence concurrent. Thus, one could argue that the consecutive terms in this case do not require scrutiny. However, in imposing consecutive sentences, a trial court imposes not only consecutive minimum terms, but also consecutive maximum terms. The robbery and assault convictions carry concurrent maximum terms of 50 years, and the home invasion conviction carries a consecutive maximum term of 30 years. Thus, defendant’s total maximum term is 80 years rather than 50. While we often ignore maximum sentences as they are defined by statute, we should not do so where consecutive sentences are imposed. I would remand for the trial court to modify the judgment of sentence so as to make all the sentences concurrent.

/s/ Douglas B. Shapiro