

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DAVID LARONE WILLIAMS,

Defendant-Appellant.

UNPUBLISHED
February 11, 2021

No. 352401
St. Clair Circuit Court
LC No. 16-002881-FH

Before: CAVANAGH, P.J., and SERVITTO and CAMERON, JJ.

PER CURIAM.

Defendant, David Larone Williams, appeals the trial court’s decision to impose a consecutive sentence after limited remand by this Court in *People v Williams*, unpublished per curiam opinion of the Court of Appeals, issued June 20, 2019 (Docket No. 338926). We affirm.

I. BACKGROUND

The underlying facts of this case are as follows:

On October 11, 2016, Port Huron Police Officer Clinton Thom attempted to stop [Williams’s] vehicle for a violation of the Motor Vehicle Code. [Williams] fled and eventually pulled into the driveway of a residence. Although Officer Thom ordered him to stay in his vehicle, [Williams] got out and began walking toward the house. When Officer Thom detained and handcuffed him, [Williams] told Officer Thom that his driver’s license was suspended, which another officer confirmed. The police found a syringe near the vehicle and [Williams’s] passenger . . . told police that [Williams] provided her with heroin several times that evening. Officer Thom reviewed his dash-cam video and observed [Williams] discard something in a garden area near the residence. Police subsequently found bags of heroin and cocaine, in an amount and packaging indicative of sales, in that area. Police also found marijuana on the floorboard of the vehicle. Police subsequently obtained a search warrant for a cell phone that was found on the driver’s seat of the vehicle, and the cell phone contained text messages that were indicative of drug transactions. [*Williams*, unpub op at 2.]

Williams was convicted by a jury of two counts of possession with intent to deliver less than 50 grams of a controlled substance (“PWID”), MCL 333.7401(2)(a)(iv); fourth-degree fleeing or eluding a police officer, MCL 257.602a(1); operating a vehicle with a suspended license, second or subsequent offense (“DWLS”), MCL 257.904(3)(b); and resisting or obstructing a police officer (“R&O”), MCL 750.81d(1). The trial court sentenced Williams as a fourth-offense habitual offender, MCL 769.12, to 10 to 25 years’ imprisonment for each PWID conviction, to 365 days’ imprisonment for the fleeing or eluding and the DWLS convictions, and to 5 to 15 years’ imprisonment for the R&O conviction. The sentence associated with the R&O charge was to be served consecutive to the other sentences.

Williams appealed his convictions and sentences to this Court arguing, among other things, that the trial court abused its discretion when it ordered that the R&O conviction be served consecutive to the other sentences. We affirmed Williams’s convictions and sentences, but remanded the case to the trial court “for the limited purpose of having the trial court articulate on the record its rationale for the consecutive sentence imposed.” *Williams*, unpub op at 8. The trial court was instructed to “comply with the requirement of” *People v Norfleet*, 317 Mich App 649; 897 NW2d 195 (2016) (*Norfleet I*). *Williams*, unpub op at 8.

On remand, the trial court issued an opinion and order, articulating its reasons to support the imposition of consecutive sentencing. These reasons included: (1) that Williams drove around with a “much younger” woman who was injecting herself with heroin that Williams had provided to her, (2) that Williams evaded police and attempted to dispose of evidence, (3) that Williams was on parole at the time of the R&O offense, (4) that Williams had only been on parole for six days at the time he committed the R&O offense, and (5) that Williams had numerous convictions of possession with intent to distribute. This appeal followed.

II. ANALYSIS

Williams argues that the trial court abused its discretion because it failed to adequately explain its imposition of consecutive sentencing on remand. We disagree.

“[D]iscretionary sentencing decisions are subject to review by the appellate courts to ensure that the exercise of that discretion has not been abused.” *Norfleet I*, 317 Mich App at 663. “An abuse of discretion occurs . . . when the trial court chooses an outcome falling outside th[e] principled range of outcomes.” *Id.* at 664 (quotation marks and citation omitted).

“Michigan has a ‘clear preference for concurrent sentencing’ and . . . the ‘[i]mposition of consecutive sentences is strong medicine.’ ” *Id.* at 665, quoting *People v Chambers*, 430 Mich 217, 229, 231; 421 NW2d 903 (1988) (alteration in original). Accordingly, “trial courts imposing one or more discretionary consecutive sentences are required to articulate on the record the reasons for each consecutive sentence imposed.” *Norfleet I*, 317 Mich App at 654. A trial court cannot speak in “general terms” regarding a defendant’s “background, his history, [and] the nature of the offenses involved.” *Id.* at 666 (quotation marks omitted; alteration in original). Rather, with respect to each offense, a trial court must “give particularized reasons—with reference to the specific offenses and the defendant—to impose each sentence[.]” *Id.* These requirements help ensure that consecutive sentences are “reserved for those situations in which so drastic a deviation from the norm is justified.” *Id.* at 665. Yet, consecutive sentencing may be appropriate for “those

who have been found guilty of more serious crimes and who repeatedly engage in criminal acts.” *People v Smith*, 423 Mich 427, 445; 378 NW2d 384 (1985).

At the outset, we note that Williams makes several assertions to support his argument that the trial court abused its discretion. However, aside from the general rule articulated in *Norfleet I* and other cases, Williams cites no relevant authority to support each individual argument. When a defendant presents an argument without any supporting authority, the argument is deemed abandoned on appeal. *People v Russell*, 266 Mich App 307, 316; 703 NW2d 107 (2005). Nevertheless, we consider the merits of each of Williams’s arguments.

Williams first argues that “the only difference between the reasons articulated in the [trial court’s decision on remand] and those from the original sentencing proceeding was that [the trial court] expressly stated that [it] was imposing a consecutive term for the same reasons [it] used to depart from the guidelines.” In making this argument, Williams apparently asserts that a trial court cannot use the same factual basis to support both a departure from the sentencing guidelines and consecutive sentencing. We have uncovered no rule or published opinion that articulates or supports this assertion by Williams. Indeed, case law establishes that all that is required of a trial court when articulating its decision to impose a consecutive sentence is that the court states on the record the unique aspects of the present offense and of the defendant that support a harsher sentence. See *Norfleet I*, 317 Mich App at 666.

In this case, in articulating its reasons for Williams’s consecutive sentence, the trial court described the uniqueness of the R&O charge by stating that Williams had driven with a “much younger passenger” who was injecting herself with heroin that was provided to her by Williams. Furthermore, the trial court noted that, “[w]hen police attempted to stop [Williams], he evaded them and tried to dispose of evidence.” The trial court also recounted the unique aspects of Williams as a defendant by describing his extensive criminal history, which included distributing narcotics, and his history of committing crimes while he was on parole. Absent a rule stating that a trial court may not use the same facts to support both a consecutive sentence and an upward departure from the sentencing guidelines, we cannot conclude that the trial court abused its discretion when it based its imposition of a consecutive sentence on essentially the same facts as the upward departure.

Williams next argues that the trial court’s reliance on his criminal history as a basis for the consecutive sentence was erroneous because Williams’s criminal history was “accounted for when the trial court calculated [Williams’s] prior record variables.” Our analyses in *Norfleet I* and *People v Norfleet (On Remand)*, 321 Mich App 68, 72; 908 NW2d 316 (2017) (*Norfleet II*) are instructive and pertinent to this argument. As previously noted, we stated in *Norfleet I* that “trial courts imposing one or more discretionary consecutive sentences are required to articulate on the record the reasons for each consecutive sentence imposed.” *Norfleet I*, 317 Mich App at 654. The *Norfleet* defendant was sentenced to five consecutive sentences associated with his five different controlled substances convictions. *Id.* at 656-657. On appeal, we remanded the case to the trial court for a description of the “particularized reasons” for each consecutive sentence. *Id.* at 666. On remand, the trial court considered the defendant’s “extensive” and “violent” criminal history, “his failure to be rehabilitated, his failure to be gainfully employed,” his history of dealing heroin, and his history of manipulation. *Norfleet II*, 321 Mich App at 72 (quotation marks omitted). We

determined these reasons were “sufficient to depart from the heavy presumption in favor of concurrent sentences[.]” *Id.* at 73.

In this case, Williams claims that the trial court abused its discretion when its imposition of a consecutive sentence “rested almost entirely upon its assessment of [Williams’s] criminal history.” In articulating its reasoning for Williams’s consecutive sentence, the trial court noted Williams’s history of drug dealing. Specifically, the trial court stated, Williams “is clearly a repeat drug dealer who has no intention of obeying the law, as evinced by his flagrant disregard for conditions of parole and . . . his drug sales/distributions and his obstruction of police.” As illustrated in *Norfleet II*, however, it is permissible for a trial court to rely on a defendant’s criminal past, along with “multiple failures to rehabilitate, and the manipulation of several less culpable individuals in his ongoing criminal operation” when imposing consecutive sentencing. *Norfleet II*, 321 Mich App at 73. Furthermore, the trial court’s imposition of consecutive sentencing went beyond consideration of Williams’s criminal history. Indeed, the trial court also considered the specific circumstances of the R&O offense. The trial court’s reasoning also went beyond citation of “general terms” by articulating Williams’s criminal past as a partial basis for its imposition of consecutive sentencing. *Norfleet I*, 317 Mich App at 666. Thus, the trial court’s reasoning fell within the requirements articulated in *Norfleet I*, as well as *Norfleet II*. We conclude that a trial court may use the same evidence to support both a departure from the sentencing guidelines and consecutive sentencing.

Williams next argues that the trial court improperly articulated Williams’s parolee status as one of the bases to support a consecutive sentence. The trial court assessed 10 points under Prior Record Variable (“PRV”) 6, which concerns a defendant’s relationship to the criminal justice system. MCL 777.56(1). Under PRV 6, a trial court may impose 10 points for an “offender [who] is on parole, probation, or delayed sentence status or on bond awaiting adjudication or sentencing for a felony.” MCL 777.56(1)(c). In this case, while the trial court acknowledged Williams’s parolee status, it is clear the trial court believed Williams’s conduct went beyond the conduct articulated under PRV 6. Indeed, in its opinion on remand, the trial court stated,

[Williams] has been convicted of possession with intent to deliver an illegal controlled substance a total of 5 times and repeatedly committed those criminal offenses while on parole. His cell phone records . . . demonstrated that he began trafficking illegal controlled substances a mere 6 days after he was paroled. [Williams] is clearly a repeat drug dealer who has no intention of obeying the law, as evinced by his flagrant disregard for conditions of parole[.]

Even though PRV 6 accounted for the fact that Williams was on parole at the time he committed the crimes in this case, the trial court’s statement evinces its belief that Williams’s actions went beyond a mere violation of his parolee status. Specifically, the trial court’s statement was more about the close relationship in time to Williams’s receipt of parolee status and the number of times he committed crimes while on parole, rather than the fact that he was on parole at the time of the instant crimes. Thus, even though the trial court accounted for Williams’s parolee status under PRV 6, it was not unreasonable for the court to also impose consecutive sentencing based on these other facts.

Finally, Williams argues “the conduct involved in the resisting and obstructing charge is far from egregious.” Although it is unclear, Williams appears to argue that the conduct cited by the trial court is insufficient to support consecutive sentencing because the nature of these actions was not sufficiently egregious. In its opinion, the trial court noted that Williams was driving with a “much younger passenger” on the night of the offense and “[w]hen police attempted to stop [Williams], he evaded them and tried to dispose of evidence.” However, these facts were not the sole basis for the trial court’s imposition of a consecutive sentence. As previously discussed, the trial court also referenced Williams’s criminal history, the fact that Williams had previously committed crimes while on parole, and the fact that Williams’s history demonstrated a lack of regard for the law and for law enforcement. The trial court specifically concluded that Williams is a “danger to any community in which he resides” and that “consecutive sentencing [was] both necessary and appropriate” given that concurrent sentencing fails “to adequately address the danger” that Williams presented to the public. These facts, when read in conjunction with each other, show “particularized reasons” for the trial court’s imposition of consecutive sentencing. *Norfleet I*, 317 Mich App at 666. We conclude that the trial court did not abuse its discretion when it imposed a consecutive sentence for the R&O conviction.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Deborah A. Servitto
/s/ Thomas C. Cameron