

**NOT TO BE PUBLISHED IN THE OFFICIAL  
REPORTS**

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IN THE COURT OF APPEAL OF THE STATE OF  
CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

THE PEOPLE,

Plaintiff and Respondent,

v.

MARCUS SEAN WORD,

Defendant and Appellant.

B276790

(Los Angeles County  
Super. Ct. No. NA096519)

APPEAL from a judgment of the Superior Court of Los Angeles County, Mark C. Kim, Judge. Affirmed.

Thomas K. Macomber, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Lance E. Winters, Senior Assistant Attorney General, Scott A. Taryle and Rene

Judkiewicz, Deputy Attorneys General, for Plaintiff and Respondent.

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A jury convicted defendant, Marcus Sean Word, of voluntary manslaughter, that is, an “unlawful killing . . . without malice,” “upon a sudden quarrel or heat of passion.” (Pen. Code, § 192, subd. (a).) The trial court sentenced defendant to the upper term of 11 years in state prison. We affirm the judgment.

Defendant asserts it was an abuse of discretion to impose the upper term sentence because there were no aggravating circumstances. Defendant, however, did not object to the trial court’s statement of reasons for imposing the upper term. As a result, he forfeited this argument. (*People v. Boyce* (2014) 59 Cal.4th 672, 730-731; *People v. Scott* (1994) 9 Cal.4th 331, 352-353.) “[C]omplaints about the manner in which the trial court exercises its sentencing discretion and articulates its supporting reasons cannot be raised for the first time on appeal.” (*People v. Scott, supra*, 9 Cal.4th at p. 356; accord, *People v. Boyce, supra*, 59 Cal.4th at p. 730.)

Even if defendant had objected below, our review is for abuse of discretion, and we would not find one here. (*People v. Sandoval* (2007) 41 Cal.4th 825, 847.) “The trial court’s sentencing discretion must be exercised in a manner that is not arbitrary and capricious, that is consistent with the letter and spirit of the law, and that is based upon an

‘individualized consideration of the offense, the offender, and the public interest.’ [Citation.]” (*Ibid.*) It is defendant’s burden to show the trial court’s decision was irrational or arbitrary. (*People v. Carmony* (2004) 33 Cal.4th 367, 376; *People v. Superior Court (Alvarez)* (1997) 14 Cal.4th 968, 977-978.)

The trial court considered the record of the case and other information submitted for sentencing purposes.<sup>1</sup> (Pen. Code, § 1170, subd. (b); Cal. Rules of Court, rule 4.420(b).) A single aggravating factor suffices to support an upper term sentence. (*People v. Black* (2007) 41 Cal.4th 799, 813; *People v. Osband* (1996) 13 Cal.4th 622, 728.) Relevant factors include: “[t]he crime involved great violence, great bodily harm, threat of great bodily harm, or other acts disclosing a high degree of cruelty, viciousness, or callousness”; “[t]he victim was particularly vulnerable”; and “[t]he defendant’s prior convictions as an adult . . . are numerous.” (Cal. Rules of Court, rule 4.421(a)(1), (a)(3), (b)(2).)

As the trial court found, this was not defendant’s first criminal law violation. Between January 1996 and June 2009, defendant committed nine misdemeanors or infractions, was placed on probation, and served time in

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<sup>1</sup> The trial court expressly stated it had “considered the documents submitted by the defense, including letters of recommendation, completed certificates from the ministry as well as the L.A. Sheriff’s Department.” None of those documents have been included in the record on appeal.

jail.<sup>2</sup> Moreover, the present crime involved great violence, a vulnerable victim, and a high degree of viciousness.

Defendant beat a man to death with his fists and feet. The victim was defenseless and did not fight back. Defendant continued to beat the victim after he was unconscious. On this record, several aggravating factors were supported, so it was well within the trial court's discretion to find an upper term sentence.

The judgment is affirmed.

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RAPHAEL, J.\*

We concur:

KRIEGLER, Acting P.J.

BAKER, J.

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<sup>2</sup> The trial court observed that defendant had no prior felony convictions. However, the probation report reflects a felony conviction for controlled substance possession (Health & Saf. Code, § 11350, subd. (a)) in 2007.

\* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.