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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

STERGIOS ANTONIOS
ECONOMOS,

Defendant and Appellant.

2d Crim. No. B291255
(Super. Ct. No. GA101880-01)
(Los Angeles County)

Stergios Antonios Economos appeals a judgment of conviction after he entered a plea to gross vehicular manslaughter while intoxicated (count 1), and causing injury while driving under the influence of a drug (count 2), with admissions that he personally inflicted great bodily injury upon two victims. (Pen. Code, §§ 191.5, subd. (a), 12022.7, subd. (a)¹; Veh. Code, § 23153, subd. (f).) We conclude that the trial court

¹ All statutory references are to the Penal Code unless otherwise stated.

did not abuse its discretion by sentencing Economos to an upper term, and affirm.

This appeal concerns the tragic death of a pedestrian whom Economos struck as he drove his vehicle while under the influence of heroin. His vehicle also struck another vehicle, which then careened into two other vehicles. Economos entered an open plea to all charged counts and allegations, and now challenges the length of his sentence.

FACTUAL AND PROCEDURAL HISTORY

In the morning of September 7, 2017, Economos drove through a red traffic signal and struck Michelle Landes as she walked in a marked crosswalk. The impact tossed Landes 60 feet into the air. Economos then collided with a vehicle driven by Steven Nahhas. That vehicle spun across the intersection and struck two other vehicles. Despite emergency medical care, Landes died from her injuries.

Police officers soon arrived at the accident scene. They observed a passenger in Economos's vehicle discard a hypodermic syringe and needle. Economos, a longtime heroin addict, was under the influence of heroin at the time.

On February 26, 2018, following advice of and waiver of his rights, Economos pleaded nolo contendere to all charged counts. He also admitted the great bodily injury allegations.²

At the sentencing hearing, the trial court acknowledged that it had read the sentencing memoranda submitted by the parties, the character reference letters submitted by Economos,

² The two charged counts concerned victim Landes. The great bodily injury allegations concerned victims Landes and Nahhas. The prosecutor did not charge Economos with a substantive count regarding Nahhas.

and the victim impact statements. The parties also presented oral argument concerning sentencing. Economos requested that the court sentence him to a low- or midterm, pointing out that he was remorseful, had no prior felony convictions, admitted guilt early in the proceedings, and had completed drug treatment programs. The prosecutor requested an upper term as did Landes's family. Among other things, the prosecutor pointed out that Economos had a long adult misdemeanor criminal record that involved drug use and possession.

During the sentencing colloquy, the trial judge commented that Economos "has been struggling with [heroin] addiction for many years." The judge then explained his reasons for imposing "the maximum [that he could] impose": "[T]he fact that he's had this prior criminal history, the fact that he was on probation at the time, the fact that there are multiple victims here that the court cannot punish for [and] . . . the circumstances of this crime [that] . . . clearly involved great violence." The judge also stated that the crime caused great negative impact on the community.

The trial court then sentenced Economos to an upper 10-year term for count 1, and imposed but stayed an upper three-year term for count 2, as well as a three-year term for the great bodily injury allegation. It also imposed a \$300 restitution fine, a \$300 parole revocation restitution fine (suspended), a \$40 court security assessment, and a \$30 criminal conviction assessment. (§§ 1202.4, subd. (b), 1202.45, 1465.8, subd. (a); Gov. Code, § 70373.) The court awarded Economos 480 days of presentence custody credit.

Economos appeals and contends that the trial court abused its discretion by imposing an upper term of imprisonment.

DISCUSSION

Economos argues that the trial court relied upon improper aggravating factors and failed to consider all mitigating factors when it imposed the upper term. He points out that he has no prior felony convictions, only misdemeanor convictions spanning 15 years. (See *People v. Piceno* (1987) 195 Cal.App.3d 1353, 1360-1361 [juvenile record standing alone insufficient as a matter of law to aggravate sentence].) He adds that great violence is inherent in the crime of vehicular manslaughter and may not be used to aggravate sentence. (*People v. McNiece* (1986) 181 Cal.App.3d 1048, 1059-1060, overruled on other grounds by *People v. McFarland* (1989) 47 Cal.3d 798, 805, and *People v. Flood* (1998) 18 Cal.4th 470, 490, fn. 12.) Economos also asserts that the court did not consider his acknowledgement of wrongdoing at an early stage, as well as his remorse. (Cal. Rules of Court, rule 4.423(b)(3).)

Forfeiture

Economos has forfeited his claims of sentencing error because he did not specifically object to the trial court's reliance on the alleged aggravating factors. (*People v. Boyce* (2014) 59 Cal.4th 672, 731; *People v. Scott* (1994) 9 Cal.4th 331, 353.) "[C]laims involving the trial court's failure to properly make or articulate its discretionary sentencing choices" are subject to forfeiture, including "cases in which the stated reasons allegedly do not apply to the particular case, and cases in which the court purportedly erred because it doubled-counted a particular sentencing factor, misweighed the various factors, or failed to state any reasons or give a sufficient number of valid reasons." (*Scott*, at p. 353.) The forfeiture rule encourages prompt detection and correction of error and reduces unnecessary

appellate claims. (*Id.* at p. 351.) Economos may not now contest his sentence on grounds that he did not specifically assert in the trial court. (*People v. Gonzalez* (2003) 31 Cal.4th 745, 755 [defendant's objection to sentence on one ground did not preserve objection on two other grounds].)

Moreover, we not deem Economos's sentencing memorandum as an objection to the trial court's later stated factors in aggravation. Furthermore, at the sentencing hearing, the court permitted the parties to argue freely and an objection would not have been necessarily futile.

No Abuse of Discretion

Forfeiture aside, the trial court properly sentenced Economos to the upper term based upon several relevant factors – his lengthy adult record of drug-related crimes and his status as a probationer.

A trial court's decision to impose an upper sentencing term is subject to review for an abuse of discretion. (*People v. Sandoval* (2007) 41 Cal.4th 825, 847.) A court abuses its discretion if it "relies upon circumstances . . . not relevant to the decision or that otherwise constitute an improper basis for [its] decision." (*Ibid.*) In exercising its discretion to impose sentence, the court may consider circumstances in aggravation or mitigation, and any other factor reasonably related to the sentencing decision. (Cal. Rules of Court, rule 4.420(b).) In determining the appropriate term, the court may consider the record in the case, the probation officer's report, sentencing memoranda, and any evidence presented at the sentencing hearing. (§ 1170, subd. (b).) A reviewing court may not reweigh the factors bearing on the court's sentencing decision. (*People v. Scott, supra*, 9 Cal.4th 331, 355.)

A single aggravating factor is sufficient to justify imposition of an upper term, and a court may minimize or even completely disregard mitigating factors without stating its reasons. (*People v. Black* (2007) 41 Cal.4th 799, 813; *People v. Lai* (2006) 138 Cal.App.4th 1227, 1258.) Moreover, the sentencing criteria set forth in the court rules have no fixed mathematical value and the court may decide that a mitigating factor is entitled to little weight. (*People v. Regalado* (1980) 108 Cal.App.3d 531, 539-540 [trial court properly found defendant's drug addiction had little mitigating value where the addiction was a long-standing problem that defendant had not remedied].)

Economos has an adult criminal record of nine misdemeanors, some of which relate to his drug use, drug possession, and obstructing a police officer. His first drug-related conviction occurred when he was 29 years old; at the time of the present crime, he was 37 years old, still addicted to heroin, and on probation for a 2016 offense that involved obstructing a police officer. These factors are sufficient to justify imposition of the upper term. (Cal. Rules of Court, rule 4.421(b)(2), (4).)

Moreover, the trial judge's remarks acknowledged that Economos has "struggled with this addiction for many years." The weight of this mitigating evidence was a matter for the court's discretion. (*People v. Regalado, supra*, 108 Cal.App.3d 531, 539-540.) In view of Economos's longstanding addiction, the trial court "could decide that the mitigating influence, if any, was small." (*Ibid.*) We do not reweigh the weight accorded to this factor. (*Ibid.*) The trial court plainly intended to impose "the maximum that [it] could impose."

The judgment is affirmed.
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GILBERT, P. J.

We concur:

PERREN, J.

TANGEMAN, J.

Darrell S. Mavis, Judge

Superior Court County of Los Angeles

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