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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

CHRISTOPHER C. OSUMI,

Defendant and Appellant.

B270340

(Los Angeles County
Super. Ct. No. SA084382)

APPEAL from a judgment of the Superior Court of Los Angeles County.
Mark E. Windham, Judge. Remanded with directions in part and affirmed in
part.

Alex Green, under appointment by the Court of Appeal, for Defendant
and Appellant.

Kamala D. Harris, Attorney General, Gerald A. Engler, Chief Assistant
Attorney General, Lance E. Winters, Assistant Attorney General,
Shawn McGahey Webb, Deputy Attorney General, for Plaintiff and
Respondent.

Christopher Osumi (defendant) appeals following a plea of no contest to one count of murder. (Pen. Code, § 187.) The trial court found the murder to be in the first degree, and sentenced defendant to a term of 25 years to life in state prison. As part of defendant's plea deal, a second count, charging attempted murder, was dismissed.

Defendant was 19 years old at the time of the murder, and he contends that he is entitled to a limited remand under *People v. Franklin* (2016) 63 Cal.4th 261 (*Franklin*) to give him an opportunity to make a record relevant to an eventual youth offender parole hearing. Respondent agrees that a limited remand is appropriate. They are correct.

FACTS

On June 11, 2013, defendant and codefendant Lopez drove around territory claimed by the Santa Monica 13 gang. At some point, they parked and got out of their car. Defendant walked down an alley toward the location where Gilbert Verastegui and Christopher Castaneda were washing a car. Defendant started an argument with the two men, then shot both men numerous times. Verastegui died from his wounds. Castaneda survived. Defendant fled the scene but was later arrested. Defendant was 19 years old.

DISCUSSION

Defendant committed the current offense before he was 23 years old and received a sentence of 25 years to life, and so he will "be eligible for release on parole by the board during his . . . 25th year of incarceration." (§ 3051, subd. (b)(3).) He will be entitled to a youth offender parole hearing which must provide for a meaningful opportunity to obtain release. (§ 3051, subds. (d) & (e).)

Section 3051 and companion statutes "contemplate that information regarding the juvenile offender's characteristics and circumstances at the

time of the offense will be available at a youth offender parole hearing to facilitate the Board's consideration." (*People v. Franklin, supra*, 63 Cal.4th at p. 283.) Assembling a record "about the individual before the crime" is typically a task more easily done at or near the time of the juvenile's offense rather than decades later when memories have faded, records may have been lost or destroyed, or family or community members may have relocated or passed away." (*Id.* at pp. 283-284.)

Here, it is not clear from the record that defendant had a sufficient opportunity to put on the record information regarding his characteristics and circumstances at the time of the offense.

The trial court sentenced defendant on February 16, 2016, after noting that the court had not received a probation report. The court set a nonappearance date of March 15, 2016, for a postsentence report to be delivered to the Department of Corrections.

Defendant was transferred to the Department of Corrections on March 3, 2016.

On April 27, 2016, the probation officer filed a postplea probation report. The report contains a summary of the offense and also shows defendant's criminal history, his age and ethnicity, his gang membership and his status as an unemployed construction worker. The report does not contain any other information about defendant at the time he committed the offense.

Following the procedures set forth in *Franklin*, "we remand the matter to the trial court for a determination of whether [defendant] was afforded sufficient opportunity to make a record of information relevant to his eventual youth offender parole hearing. [¶] If the trial court determines that [defendant] did not have sufficient opportunity, then the court may receive

submissions and, if appropriate, testimony pursuant to procedures set forth in section 1204 and rule 4.437 of the California Rules of Court, and subject to the rules of evidence. [Defendant] may place on the record any documents, evaluations, or testimony (subject to cross-examination) that may be relevant at his eventual youth offender parole hearing, and the prosecution likewise may put on the record any evidence that demonstrates the juvenile offender's culpability or cognitive maturity, or otherwise bears on the influence of youth-related factors." (*Franklin, supra*, 63 Cal.4th at p. 284.)

DISPOSITION

This matter is remanded to the trial court for the limited purpose of determining whether defendant had a sufficient opportunity to make a record of information relevant to his eventual youth offender parole hearing. If defendant did not have such an opportunity, he is to be afforded one. The judgment is affirmed in all other respects.

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GOODMAN, J.*

We concur:

ASHMANN-GERST, Acting P.J.

CHAVEZ, J.

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