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Clerk of the
Appellate Courts

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

September 16, 2025 Session

STATE OF TENNESSEE v. SADE JANAE BURROW

Appeal from the Criminal Court for Sumner County

No. 2020-CR-708

Dee David Gay, Judge

No. M2024-01565-CCA-R3-CD

The Defendant, Sade Janae Burrow, appeals from the partial consecutive sentences imposed by the trial court upon resentencing following the revocation of her community corrections supervision, increasing her effective sentence from ten to sixteen years. She contends that the trial court erred by failing to weigh the relevant mitigating factors against applicable enhancement factors and abused its discretion by inappropriately imposing partial consecutive sentences as punishment for committing a violation of her original community corrections supervision. After review, we affirm the judgments of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgments of the Criminal Court Affirmed

KYLE A. HIXSON, J., delivered the opinion of the court, in which ROBERT W. WEDEMEYER, P.J., and ROBERT L. HOLLOWAY, JR., J., joined.

Patrick T. McNally (on appeal), Nashville, Tennessee; and John D. Pellegrin (at resentencing), Gallatin, Tennessee, for the appellant, Sade Janae Burrow.

Jonathan Skrmetti, Attorney General and Reporter; Caroline Weldon, Assistant Attorney General; Lawrence Ray Whitley, District Attorney General; and Eric S. Mauldin, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

I. FACTUAL AND PROCEDURAL HISTORY

The underlying convictions in this case stem from the Defendant's arrest in September 2020 for numerous offenses related to her using and selling heroin and fentanyl, as well as evading arrest in a motor vehicle. A Sumner County grand jury indicted the

Defendant for six offenses in December 2020. On October 4, 2021, the Defendant pled guilty to three counts of the indictment: sale of heroin, a Schedule I controlled substance, a Class B felony, in count 1; sale of fentanyl, a Schedule II controlled substance, a Class C felony, in count 3, as amended; and evading arrest with a risk of injury, a Class D felony, in count 5. *See* Tenn. Code Ann. §§ 39-16-603; -17-406(c)(11), -408(c)(9), -417(a)(3), (b), (c)(2)(A). The Defendant was referred for a presentence investigation report, and the remaining counts in the indictment were dismissed. The parties agreed that the trial court would set the terms and manner of service at a separate sentencing hearing, but they also agreed to limit the Defendant's sentencing exposure for count 1 to between eight and ten years.¹ *See id.* § 40-35-112(a)(2) (setting the sentencing range for a Class B felony conviction within Range I at eight to twelve years).

At the outset of the sentencing hearing on April 1, 2022, the parties recommended imposition of an agreed-upon sentence. Pursuant to the recommended terms, the Defendant was to be sentenced to concurrent terms of ten years on count 1, six years on count 3, and four years on count 5, resulting in an effective ten-year sentence, wherein the Defendant would serve one year in split confinement and then be placed on community corrections, with supervision to occur while she was residing in Michigan. Prior to accepting the recommended sentence, the trial court inquired of the Defendant directly whether she understood that, if she violated the terms of her supervision, her "sentence could go up to [twenty] years" if the trial court later resentenced her to consecutive terms. The Defendant verbally acknowledged her understanding of this, and defense counsel also asserted that he had discussed with the Defendant that "she would be subject to resentencing" if she violated the terms of community corrections. Following this, the trial court accepted the recommended sentence in all respects, and judgments were entered accordingly.

In February 2024, the Defendant was arrested again in Sumner County for charges related to crack cocaine use and evading arrest. Following this incident, the Defendant was served with a violation of community corrections warrant in the present case based upon her arrest for these new offenses. At a subsequent hearing, she pled guilty to evading arrest, and the parties agreed that the trial court would determine the length and manner of sentence for that offense with a "jail cap" of "two years at [thirty] percent." The remaining charges against the Defendant were dismissed, and she was referred for a new presentence investigation report.

¹ Though never explicitly discussed, it appears the parties agreed the Defendant was a Range I, standard offender.

On September 11, 2024, the trial court held a combined hearing regarding resentencing the Defendant on the violation warrant and sentencing the Defendant on the new evading arrest conviction. The new presentence investigation report was introduced as an exhibit to the hearing, as was a letter from the Defendant's mother asking the court to allow her to "return back to Michigan and get the help we feel she needs." The State also introduced certified copies of two Wilson County judgments of conviction to establish the Defendant's criminal history. These judgments, which were entered on January 15, 2023 pursuant to a guilty plea, reflected convictions for (1) possession of methamphetamine, a Schedule II controlled substance, in an amount greater than one-half gram, a Class B felony; and (2) possession of fentanyl, a Schedule II controlled substance, a Class C felony. *See* Tenn. Code Ann. §§ 39-17-417, -434.

Officer Edgar Meza with the Hendersonville Police Department testified that, on February 7, 2024, he observed a vehicle traveling 82 miles per hour in a 65 miles-per-hour zone, and he attempted to initiate a traffic stop by activating his emergency equipment. However, the driver of the vehicle did not pull over, but instead sped up and began passing other vehicles, weaving in and out of traffic for approximately seven to eight miles, at speeds exceeding 120 miles per hour. While in pursuit, Officer Meza contacted another officer in the area and requested that a "spike strip" be laid at an upcoming exit. This maneuver was successful in stopping the speeding vehicle, and the Defendant was identified as the driver. The Defendant also had a sixteen-year-old passenger with her in the vehicle. In the subsequent search of the Defendant's person, the Defendant was found to be in possession of crack cocaine and "multiple packets of cannabis" that were empty but "smelled like marijuana."

The Defendant testified about her work and family history, ongoing medical and mental health issues, and drug addiction, and she admitted to having been "[u]nder the influence" of crack cocaine at the time of her most recent arrest. She also expressed her belief that she had been placed on probation, rather than community corrections. She denied having any ties to the state of Tennessee and claimed that she had no intention of ever returning to Tennessee in the future. The Defendant also expressed confusion about the laws and probation system in Tennessee, stating that she "didn't realize . . . how serious [probation] was," and she "just thought [she] could live [her] regular life" once she was released from custody after serving the split confinement period ordered in this case. She further asserted her belief that, in Michigan, people were not sent to prison for a first violation of probation, even if the basis of that violation was new criminal charges. The Defendant acknowledged that she did not believe she could violate the law while on probation, but she maintained that she "didn't understand how serious probation was [in Tennessee]." The Defendant expanded on her undiagnosed mental health issues and drug

addiction by stating that, while she had never previously believed that she had a problem or required treatment, she now believed she needed both addiction and mental health treatment. Throughout the hearing, however, the Defendant repeatedly stated that she did not believe that her past drug use had ever been “serious.” And, although she was now facing “serious consequences,” the Defendant asked the trial court to give her “another chance [to] get [her] life together, all the way together.”

Following examination by the parties, the trial court referred to the presentence investigation reports before it and began asking the Defendant questions about her criminal history and the circumstances of the offenses in this case, as well as those leading to the violation. She attributed her most recent arrest to her not being “in [her] right mind” on account of the crack cocaine she had used, but she agreed that she was endangering others by fleeing from law enforcement at speeds exceeding 120 miles per hour on a public roadway, including the minor passenger in her vehicle.

The Defendant acknowledged that she had a misdemeanor conviction and an active warrant for failing to appear on a traffic offense in Michigan, as well as two felony convictions for selling drugs in Wilson County, Tennessee. She further acknowledged that—in the instant case, as well as in the Michigan and Wilson County cases—she had received three suspended sentences. The Defendant repeatedly denied being a “drug dealer” while also stating that she “was selling drugs.” Initially, she told the trial court that she had only sold drugs “[those] two times,” referring to the sales to two different confidential informants that led to her arrest on the underlying charges in this case. However, when reminded by the trial court that she was under oath and asked if “the first time that [she] happened to sell drugs it happened to be [to] confidential informants,” the Defendant responded that she had sold various drugs “[a] couple times on different occasions.” Eventually, the Defendant admitted that she had sold drugs “[a] lot” in the past, including “[t]en times to the same [confidential informant],” and “[p]robably a lot” to other individuals.

Prior to hearing argument at the conclusion of the proof, the trial court noted that “[t]he sentences that were imposed were ten years, six years, and four years and they all run concurrently. And the cap there was ten years.” The trial court framed the issues for its determination: “The issue is a two-year sentence at [thirty] percent jail cap on your new case, and then whether or not these sentences should run consecutively to each other and possibly consecutively to the [new case].” The trial court then expressed its belief regarding the procedures for the parties: “[I]t doesn’t look like we’re looking at mitigating or enhancement factors. We’ve got – we’ve got a situation here where we’ve got a definite jail cap, but you can go into enhancement factors or mitigating factors if you want to.” The

trial court also asserted that “the sentencing considerations . . . within [Tennessee Code Annotated] 40-35-103” were applicable to its determination:

One, confinement [is] necessary to protect society by restraining a defendant who has a long history of criminal conduct.

Two, confinement is necessary to avoid depreciating the seriousness of the offense or suited to provide an effective deterrence for others likely to commit such similar offenses.

And measures less restrictive than confinement have frequently or recently been applied unsuccessfully.

And, lastly, the potential or lack of potential for rehabilitation.

The State expressed its belief that the trial court could “resentence [the Defendant on the instant case] within the range . . . [of] eight to ten [years] by agreement [on count 1], three to six [years on count 3], and then two to four [years on count 5].” Regarding enhancement factors, the State noted that the Defendant had six felony convictions and was being supervised at the time she committed the new offenses. The State agreed with the trial court that the manner of service was the primary concern in the Defendant’s case, citing her history of criminal conduct: “Even though she doesn’t want to admit to being a drug dealer, she was certainly selling drugs over and over and over again, which is certainly criminal conduct. And then she comes back four years later [sic] and is continuing to smoke crack and run from the police.” The State also emphasized the need to avoid depreciating the seriousness of the offense and to provide effective deterrence, noting that the Defendant got “a big break . . . the first time around” yet picked up the same type of charges: “If we put her back on [community corrections], everybody in that jail is going to think, well, if I go on probation and I pick up the same exact felony charges then I get to go back on probation.” Finally, the State asserted that the Defendant “had no hesitation whatsoever in going 120 miles an hour down the road with a minor as she’s smoking crack” and asked the trial court to impose the maximum sentence in confinement.

Without explicitly referencing any potential mitigating factors, defense counsel argued that the Defendant was “at a disadvantage” because of her “serious issues” with drug addiction and mental health concerns. Defense counsel also reiterated the Defendant’s belief “that if she had had these same sort of charges where she’s from in Michigan and was placed on probation and violated again, that she would not be looking at nearly as serious of consequences as she is here. Whether that’s true or not, that’s

certainly her perception.” Defense counsel further asserted that the Defendant “didn’t understand . . . that she [could] be resentenced” upon a violation of what she believed to be probation and asked the trial court not to increase her sentence or impose incarceration.

The trial court first noted the difference between service on community corrections versus probation: “She can be resentenced, but she’s going to get street credit which she wouldn’t normally get on state probation.” The trial court next stated that, “in looking at the law here . . . and the enhancement factors,” it agreed with the State that the Defendant had “a history of criminal convictions and criminal behavior. And then she has no hesitation about committing a crime when the risk to human life is high.” *See* Tenn. Code Ann. § 40-35-114(1), (10). The trial court then returned to the considerations of sentences involving confinement enumerated in Tennessee Code Annotated 40-35-103:

Restraining a defendant who has a long history of criminal conduct. Now, she’s got a long history of use of drugs. She’s got a history of selling drugs. And now she’s got a history of evading the law, [at] 120 miles per hour. I don’t know what else we can do to protect society. Nothing has worked.

. . . .

. . . [W]e put her on [community corrections] for ten years. She keeps using drugs and she doesn’t do anything to help herself in the program. That’s why we have [community corrections,] and people can go to them. It doesn’t look like there’s much of anything that’s been done.

Citing the Defendant’s “new crimes,” “old drug dealing,” and her “record of criminal activity that is extensive pursuant to [Tennessee Code Annotated] 40-35-115,” the trial court ordered the six-year sentence in count 3 to run consecutively to the ten-year sentence in count 1, for a total effective sentence of sixteen years in the instant case, to be served in the Tennessee Department of Correction.²

The Defendant filed a timely notice of appeal.

² The trial court made no explicit mention of count 5 at the resentencing hearing, but the judgment forms reflect that it imposed a four-year sentence concurrent with count 1. For the evading arrest charge in the new case, the trial court imposed a sentence of two years’ incarceration to be served consecutively to this case. The Defendant does not challenge imposition of this two-year sentence on appeal.

II. ANALYSIS

On appeal, the Defendant contends that the trial court abused its discretion by ordering a “significantly longer sentence” in confinement following the revocation of her community corrections sentence. Her argument is two-fold: (1) the trial court failed to apply and weigh the relevant enhancement and mitigation factors, and (2) the trial court improperly imposed consecutive sentences in the instant case as punishment for the Defendant’s community corrections violation.³ The Defendant urges this court to conduct a de novo review, vacate the judgments of the trial court, and reinstate her original concurrent sentences. The State responds that the trial court properly exercised its discretion in resentencing the Defendant. As the Defendant admitted to the violation and does not challenge the trial court’s revocation of her original community corrections sentence, or the terms imposed, we will examine only the propriety of its resentencing decision as to consecutive sentencing.

A. Community Corrections and Resentencing

Pursuant to the Tennessee Community Corrections Act, trial courts are authorized to sentence eligible defendants “to any appropriate community-based alternative to incarceration” provided in accordance with the eligibility considerations and terms expressed therein. *See* Tenn. Code Ann. § 40-36-106. Similar to regular probation, a trial court may revoke a community corrections sentence if it finds by a preponderance of the evidence that the defendant has violated the terms and conditions of such supervision. *State v. Harkins*, 811 S.W.2d 79, 82-83 (Tenn. 1991). However, the Community Corrections Act grants the trial court additional authority in this regard:

The court shall also possess the power to revoke the sentence imposed at any time due to the conduct of the defendant or the termination or modification of the program to which the defendant has been sentenced, and the court may resentence the defendant to any appropriate sentencing alternative, including incarceration, for any period of time up to the maximum sentence provided for the offense committed, less any time actually served in any community-based alternative to incarceration. The resentencing shall be conducted in compliance with [Tennessee Code Annotated section] 40-35-210.

³ Although the Defendant also argued for reinstatement on community corrections in her principal brief, appellate counsel abandoned this request at oral argument and conceded that incarceration was appropriate. In light of this concession, we will not address the trial court’s denial of alternative sentencing.

Tenn. Code Ann. § 40-36-106(e)(4). Thus, unlike regular probation, defendants sentenced to community corrections may later be resentenced following a violation, and, if incarceration is imposed, they are also statutorily entitled to credit against their sentences for any time successfully spent in the community corrections program. *Contrast id.* § -106 with § -35-311(d)(1), (e)(2). Further, following a community corrections revocation and a resentencing hearing, the trial court has the permissive authority to align sentences consecutively, even if those sentences had been aligned concurrently in the original judgments. *State v. Samuels*, 44 S.W.3d 489, 495-96 (Tenn. 2001).

“The purpose of allowing the trial court to impose a new sentence is that the nature, circumstances and frequency of the defendant’s violations may ‘warrant a different type of alternative sentence or incarceration.’” *State v. Crook*, 2 S.W.3d 238, 240 (Tenn. Crim. App. 1998) (quoting *State v. Ervin*, 939 S.W.2d 581, 583 (Tenn. Crim. App. 1996)). As is noted within the statute, when resentencing a defendant upon violation, the trial court “must conduct a sentencing hearing pursuant to the principles of the Sentencing Reform Act.” *Id.* (first citing *State v. Cooper*, 977 S.W.2d 130, 132 (Tenn. Crim. App. 1998); then citing *Ervin*, 939 S.W.2d at 583; and then citing *State v. Batts*, No. 01-C-01-9210-CR-00326, 1993 WL 39749, at *5 (Tenn. Crim. App. Feb. 18, 1993)); *see also* Tenn. Code Ann. § 40-36-106(e)(4). This requirement prevents trial courts from using the statute for the “sole” purpose of punishing defendants for violating community corrections by eliminating the possibility of a “preemptive” maximum sentence being imposed without the requisite findings to support this decision being made upon resentencing. *See Crook*, 2 S.W.3d at 240-41. Because a resentencing of a community corrections sentence must conform with the purposes and principles of the Criminal Sentencing Reform Act, appellate courts review such determinations using the same standard of review as they would in any sentencing appeal. *See Samuels*, 44 S.W.3d at 492-94 (applying the pre-*Bise* standard of review to a community corrections resentencing).

B. General Considerations upon Resentencing and Standard of Review

When an accused challenges the length of a sentence or manner of service, this court reviews the trial court’s sentencing determination under an abuse of discretion standard accompanied by a presumption of reasonableness. *State v. Bise*, 380 S.W.3d 682, 707 (Tenn. 2012); *see also State v. Caudle*, 388 S.W.3d 273, 278-79 (Tenn. 2012) (applying the *Bise* standard to “questions related to probation or any other alternative sentence”). The *Bise* standard of review also applies to consecutive sentencing determinations. *State v. Pollard*, 432 S.W.3d 851, 860-61 (Tenn. 2013). The party challenging the sentence imposed by the trial court has the burden of establishing that the sentence is erroneous.

Tenn. Code Ann. § 40-35-401, Sent. Comm’n Cmts.; *see also State v. Arnett*, 49 S.W.3d 250, 257 (Tenn. 2001).

The Sentencing Reform Act was enacted in order “to promote justice” and “assure fair and consistent treatment of all defendants by eliminating unjustified disparity in sentencing and providing a fair sense of predictability of the criminal law and its sanctions.” Tenn. Code Ann. § 40-35-102. As a general matter, in determining “the specific sentence and the appropriate combination of sentencing alternatives,” the trial court shall consider: (1) the evidence adduced at the trial and the sentencing hearing; (2) the presentence report; (3) the principles of sentencing and arguments as to sentencing alternatives; (4) the nature and characteristics of the criminal conduct involved; (5) evidence and information offered by the parties on the enhancement and mitigating factors set forth in Tennessee Code Annotated sections 40-35-113 and 40-35-114; (6) any statistical information provided by the Administrative Office of the Courts as to Tennessee sentencing practices for similar offenses; (7) any statement the defendant wishes to make in the defendant’s own behalf about sentencing; and (8) the result of the validated risk and needs assessment conducted by the department and contained in the presentence report. Tenn. Code Ann. § 40-35-210(b).

To facilitate meaningful appellate review, the trial court must state on the record the sentencing principles it considered and the reasons for the sentence imposed. *See id.* § -210(e)(1)(B); *Bise*, 380 S.W.3d at 705. “Mere inadequacy in the articulation of the reasons for imposing a particular sentence, however, should not negate the presumption [of reasonableness].” *Bise*, 380 S.W.3d at 705-06. A sentence should be upheld if the trial court provided “enough to satisfy the appellate court that [it] has considered the parties’ arguments and [that it] has a reasoned basis for exercising [its] . . . legal decisionmaking authority.” *Id.* (quoting *Rita v. United States*, 551 U.S. 338, 356-57 (2007)). When such is not the case, “the presumption of reasonableness does not apply and the abuse of discretion standard . . . is not appropriate.” *See State v. King*, 432 S.W.3d 316, 327-28 (Tenn. 2014) (citations omitted). Under those circumstances, the reviewing court has the discretion to either conduct a de novo review or remand to the trial court for reconsideration. *Id.* at 328.

C. Consecutive Sentencing

A trial court may order multiple offenses to be served consecutively if it finds by a preponderance of the evidence that a defendant fits into at least one of the categories in Tennessee Code Annotated section 40-35-115(b). “Any one of these grounds is a sufficient basis for the imposition of consecutive sentences.” *Pollard*, 432 S.W.3d at 862 (citing

State v. Dickson, 413 S.W.3d 735, 748 (Tenn. 2013)). This court must give “deference to the trial court’s exercise of its discretionary authority to impose consecutive sentences if it has provided reasons on the record establishing at least one of the . . . grounds listed in Tennessee Code Annotated section 40-35-115(b).” *Id.* at 861. “So long as a trial court properly articulates reasons for ordering consecutive sentences, thereby providing a basis for meaningful appellate review, the sentences will be presumed reasonable and, absent an abuse of discretion, upheld on appeal.” *Id.* at 862 (first citing Tenn. R. Crim. P. 32(c)(1); and then citing *Bise*, 380 S.W.3d at 705). Here, the trial court properly articulated its reasons for imposing consecutive sentencing, and we will thus review its determination on this point under an abuse of discretion standard accompanied by a presumption of reasonableness.

The trial court imposed partial consecutive sentences on the basis that the Defendant “is an offender whose record of criminal activity is extensive.” Tenn. Code Ann. § 40-35-115(b)(2). Our supreme court has provided six factors to consider in determining whether an offender has an extensive record of criminal activity. *State v. Perry*, 656 S.W.3d 116, 128-29 (Tenn. 2022). Courts should look to the following non-exclusive considerations in determining whether a defendant’s criminal record is “extensive” under Tennessee Code Annotated section 40-35-115(b)(2):

- (1) The amount of criminal activity, often the number of convictions, both currently before the trial court for sentencing and prior convictions or activity;
- (2) The time span over which the criminal activity occurred;
- (3) The frequency of criminal activity within that time span;
- (4) The geographic span over which the criminal activity occurred;
- (5) Multiplicity of victims of the criminal activity; and
- (6) Any other fact about the defendant or circumstance surrounding the criminal activity or convictions, present or prior, that informs the determination of whether an offender’s record of criminal activity was considerable or large in amount, time, space, or scope.

Perry, 656 S.W.3d at 129 (footnotes omitted). A defendant need not have prior criminal convictions or activity apart from that for which the defendant is being sentenced to qualify

as an offender whose record of criminal activity is extensive. *Id.* at 131. But prior convictions or criminal activity “may demonstrate ‘a consistent pattern of operating outside the confines of lawful behavior’ and provide some stronger measure of justification for finding that a defendant is an offender whose record of criminal activity is extensive.” *Id.* (quoting *Dickson*, 413 S.W.3d at 748).

In the instant case, the Defendant contends that the increase in her overall effective sentence was “extraordinarily punitive” and “motivated solely” by the trial court’s desire to punish her for the violation. If this were the case, it would certainly be improper. *See, e.g., Crook*, 2 S.W.3d at 240-41 (noting that it is improper for a trial court to set a sentence that would be automatically imposed if a violation of community corrections occurred). However, the safeguards in the Community Corrections Act that serve to prevent such impropriety were followed in this case: the trial court conducted a resentencing hearing after the violation.⁴ *See id.*

As such, to uphold the partial consecutive sentences imposed in this case, we need only determine if the trial court “provided reasons on the record establishing at least one of the . . . grounds listed in Tennessee Code Annotated section 40-35-115(b).” *Pollard*, 432 S.W.3d at 861. The trial court did so here by stating on the record at the resentencing hearing that its “basis for imposing consecutive sentencing is that [the Defendant] has a record of criminal activity that is extensive pursuant to [Tennessee Code Annotated section] 40-35-115.” Guided by the *Perry* factors, we agree that this was a proper basis for the trial court to rely upon: by her own admission, the Defendant frequently sold illegal drugs; she was continuing to use illegal drugs and flee from law enforcement more than a year after her original placement on community corrections in this case; she had felony convictions in two separate Tennessee jurisdictions, as well as criminal activity in Michigan; and her initial lack of candor in the trial court at the resentencing hearing—while she was under oath—coupled with her failure to consider suspended sentences to be “serious” also serve to demonstrate her “consistent pattern of operating outside the confines of lawful behavior.” *See Perry*, 656 S.W.3d at 129-31 (quoting *Dickson*, 413 S.W.3d at 748). We conclude that the trial court properly exercised its discretion by imposing partial consecutive sentences, and the Defendant is not entitled to relief.

⁴ We also note that, at the Defendant’s original sentencing hearing, the trial court informed her that her sentence “could” be increased up to twenty years if she were to violate, but it neither mandated this term nor imposed it without a resentencing hearing, distinguishing this case from *Crook*.

III. CONCLUSION

Based upon the foregoing and consideration of the record as a whole, we affirm the judgments of the trial court.

s/ Kyle A. Hixson
KYLE A. HIXSON, JUDGE