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STATE OF TENNESSEE V. KEVIN E. TRENT*

BEN RAYBIN AND JULIANA LAMAR

On May 3, 2012, Kevin E. Trent was under the influence of prescription medication when he drove his pick-up truck across three lanes of traffic, and collided head-on with a vehicle driven by Karen Freeman. As a result of the accident, Ms. Freeman suffered multiples injuries making her unable to speak or walk. Ms. Freeman was hospitalized for a period of two months before being transferred to a nursing home. Ms. Freeman succumbed to her injuries in October 2013.

Trent plead guilty to one count of vehicular homicide as result of his intoxication, a Class B felony. He was sentenced to eight years following a plea agreement, with his manner of service to be determined by the trial court following a sentencing hearing.

During the hearing, evidence showed that Trent’s blood at the time of the accident was above therapeutic levels for prescription medication. Trent was prescribed Oxycodone and Xanax after he lost both of his arms below the elbow and his left leg following a 2005 motorcycle accident. Though Trent was also prescribed prosthetic devices for these injuries, he admitted that he did not use them while driving, nor did he make any modifications to his truck to accompany his physical limitations. Trent testified to being unaware of warning labels on his prescriptions cautioning him not to drive while taking the medications.¹ Trent also admitted to taking more pills than his prescription allotted for whenever his pain was particularly bad, but did not think his medications impaired his driving. When Trent was questioned about the accident, he stated he had no memory of the event or the three weeks preceding it.

The trial court sentenced Trent to eight years confinement, denying probation to avoid “depreciating the seriousness of the offense.”² Trent appealed to the Court of Criminal Appeals arguing the proof did not support the trial court’s decision denying probation “because the circumstances of his offense were not ‘especially violent, horrifying, shocking, reprehensible, offensive, or otherwise of an excessive or exaggerated degree.’” The Court of Criminal Appeals reversed the trial court’s ruling and sentenced Trent to probation.

* *State v. Trent*, 533 S.W.3d 282 (Tenn. 2017).

1. Trent acknowledged that the labels on his prescriptions warned him that the medications may cause drowsiness, but stated the labels did not tell him he could not drive.

2. Tenn. Code Ann. § 40-35-103(1)(B).

On appeal, the Supreme Court of Tennessee reversed the judgment of the Court of Criminal Appeals, vacated the trial court’s sentencing determination, and remanded the case for a new sentencing hearing. The Court began by stating the standard of review, which provides that sentencing determinations should be reviewed under an abuse of discretion standard, with a presumption of reasonableness for within-range sentencing decisions that reflect a proper application of law.³ But the *Bise* Court also noted that “appellate courts cannot properly review a sentence if the trial court fails to articulate in the record its reasons for imposing the sentence.”⁴

Looking at the case at hand, the court found that the trial court did not sufficiently articulate its reasons for imposing the sentence. Moreover, the court held that the trial court appeared to have improperly reached its decision denying probation. In *State v. Travis*, the court explained that, when the seriousness of a defendant’s crime is the sole reason for ordering incarceration, the circumstances of the *particular crime as committed by the defendant* must be considered.⁵

Because some crimes are statutorily ineligible for probation under any circumstances, the legislature is presumed to have deemed the other crimes inherently eligible for probation absent some additional factor. The commission of the essential elements of a probation-eligible offense—no matter how serious the offense or the essential elements may be—cannot alone justify denial of probation. Rather, the sentencing court must find that the offense was committed in a particularly egregious manner in order to deny probation.

In *Trent*, the court explained that “the trial court made no findings regarding the particular circumstances surrounding the Defendant’s commission of [the offense].”⁶ Rather, it held that “it appears” the trial court abused its discretion by denying probation “simply upon the elements of the offense” rather than additional factors. The court thus vacated the denial of probation as improperly ordered.⁷

The Supreme Court of Tennessee next reached the issue of remedy. The intermediate decision by the Court of Criminal Appeals independently reviewed the record and ordered a sentence of probation. The court reversed this determination as well. Just as the record was insufficient to uphold a sentence *denying* probation, the court held the record was also insufficient to allow an appellate court to *grant* probation. The court identified certain facts in the record which *could* potentially justify a denial of probation if more fully examined, and remanded for a new sentencing hearing to more thoroughly examine the entirety of the case.

3. *State v. Bise*, 380 S.W.3d 682 (Tenn. 2012).

4. *Id.* at 705; See Tenn. Code Ann. § 40-35-210(e) (requiring the sentencing court to “place on the record . . . the reasons for the sentence”).

5. *State v. Travis*, 622 S.W.2d 529 (Tenn. 1981).

6. *Id.*

7. *Id.*

The central holding vacating the sentence in this case did not establish a new doctrine of law but merely reiterated the holding in *Travis* that the essential elements of the offense alone cannot justify denial of probation in a probation-eligible offense. The *Trent* decision should be viewed by trial judges and practitioners primarily as a reminder of that principal.

On the other hand, the court broke some new ground in appellate review. Prior decisions established that appellate courts can only uphold a sentence if the record is sufficient record to allow “meaningful appellate review.” *Trent* took that rule a step further by requiring a sufficient record for an appellate court to affirmatively impose a sentence.