IN THE

Supreme Court

OF THE

Commonwealth of the Northern Mariana Islands

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS,
Plaintiff-Appellee,

v.

MARLON MARTIN,
Defendant-Appellant.

Supreme Court No. 2018-SCC-0004-CRM

OPINION

Cite as: 2020 MP 10

Decided May 8, 2020

CHIEF JUSTICE ALEXANDRO C. CASTRO
ASSOCIATE JUSTICE JOHN A. MANGLOÑA
ASSOCIATE JUSTICE PERRY B. INOS

Superior Court Criminal Action No. 17-0067
Associate Judge Joseph N. Camacho, Presiding

INOS, J.:

¶ 1 Defendant-Appellant Marlon Martin ("Martin") seeks to vacate his sentence, arguing the court (1) failed to properly individualize his sentence; (2) mechanically imposed his sentence; (3) impermissibly restricted parole eligibility; and (4) impermissibly denied early release, work release, weekend release, or other similar programs. He also asks to remand this case to a different judge for resentencing. For the following reasons, we AFFIRM Martin's sentence.

I. FACTS AND PROCEDURAL HISTORY

¶ 2 Less than a year after his release from seven years of incarceration,[1] Martin disguised himself with a mask and a hooded jacket, entered a poker establishment, pressed a hammer against the cashier's neck, and stole $500. He pled guilty to one count of robbery in violation of 6 CMC § 1411(a).[2] Martin waived a presentence investigation report but submitted a sentencing memorandum.

¶ 3 Martin asked for a sentence of time served, which was seven months and twenty days at the time of sentencing, and to be deported to Palau. The court sentenced him to twenty years' imprisonment, denied probation, early release, work or weekend release, or other similar programs, and restricted parole eligibility to the last five years of his sentence. *Commonwealth v. Martin*, No. 17-0067 (NMI Super. Ct. Jan. 10, 2018) (Sentencing and Commitment Order at 5) ("Sentencing Order").

¶ 4 In evaluating mitigating factors, the court noted "there was nothing in the arguments of counsel[] and the memorand[a] that would point to a significant mitigating factor . . . . " Martin, No. 17-0067 (NMI Super. Ct. Jan. 10, 2018) (Sentencing Hr'g Tr. 8) ("Tr."). It recognized that the victim "was not seriously injured" and considered Martin's unemployment status and inability to pay restitution. *Id*. It also went through a list of mitigating factors which if present would have been considered significant.[3] In considering aggravating factors, the court emphasized Martin's criminal record, which consisted of burglary, robbery, aggravated assault and battery, and assault with a dangerous weapon. *Id*. at 8.

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[1] Martin was serving probation for the suspended portion of a 14-year sentence (seven years in jail and seven years on probation) when he committed the instant robbery. *Commonwealth v. Martin*, No. 09-0188(D) (NMI Super. Ct. February 09, 2015) (Amended Judgment and Commitment Order). The record reflects that the court did not consider Martin's parole violation at sentencing.

[2] 6 CMC § 1411(a) states: "A person commits the offense of robbery if he or she takes property from the person of another, or from the immediate control of another, by use or threatened use of immediate force or violence."

[3] The court considers significant mitigating factors to include cooperation with law enforcement to identify other criminals or drug dealers, youthfulness, or any history of mental illness or disability. Tr. 8.

¶ 5 In choosing parole eligibility over probation, the court explained that Martin's most recent imprisonment failed "to change [his] criminal behavior" or provide incentives for early release based on good behavior.[4] Sentencing Order at 6. The pattern of reoffending, especially after recently being released from a long-term imprisonment, "fail[ed] to rehabilitate [Martin], and failed to be a significant deterrence." *Id*. at 4. As a result, the court fashioned a much longer sentence before Martin could be eligible for parole. *Id.* at 6. Martin appeals his sentence.

II. JURISDICTION

¶ 6 We have jurisdiction over final judgments and orders of the Commonwealth Superior Court. NMI CONST. art. IV, § 3.

III. STANDARDS OF REVIEW

¶ 7 We review the sentencing decision under an abuse of discretion standard because Martin properly preserved his objections.

¶ 8 In general, we will review a sentencing determination under a two-step process: a review of any procedural defects in the sentence, and then a review of the substantive reasonableness of the sentence. As held in *Commonwealth v. Babauta*, substantive reasonableness is reviewed for an abuse of discretion regardless of whether the party formally objected. 2018 MP 14 ¶ 12. Under an abuse of discretion review, courts enjoy "'nearly unfettered discretion in determining what sentence to impose,' and reversal is only appropriate 'if no reasonable person would have imposed the same sentence.'" *Commonwealth v. Taitano*, 2018 MP 12 ¶ 41 (quoting *Commonwealth v. Palacios*, 2014 MP 16 ¶ 12). Procedural defects may also be reviewed for an abuse of discretion if the party properly objects to the procedural defect; otherwise, we will review the procedural flaw for plain error.

¶ 9 A party preserves an objection by "inform[ing] the court what action it wishes the court to take." *Commonwealth v. Reyes*, 2020 MP 6 ¶ 10 (quoting *United States v. Holguin-Hernandez*, 140 S. Ct. 762, 766 (2020)); *cf.* NMI R. Crim. Pro. 51 ("a party . . . makes known to the court the action which he/she desires the court to take . . ."). By requesting a particular sentence, the party necessarily preserves an abuse of discretion standard of review for substantive reasonableness challenges. *Reyes*, 2020 MP 6 ¶ 10. For procedural errors, we pointed to the United States Supreme Court's refusal to decide what may constitute an objection for procedural challenges. *Id.* We stated that a statement that is merely a passing announcement of the law or a statement made in response to a certain party's view is insufficient to preserve an objection. *Id.* ¶ 11.

¶ 10 Here, because Martin preserved his objections, we need not undertake the

[4] 6 CMC § 4115 ("Section 4115") states: "[t]he court, in imposing any felony sentence, shall enter specific findings why a sentence, fine, alternative sentence, suspension of a sentence, community service or probation, will or will not serve the interests of justice."

two-step approach and instead analyze all claims of defects in the sentencing decision for an abuse of discretion. At sentencing, Martin objected to the Commonwealth's statement that it "sees [as] an aggravating factor the use of the weapon, the display of the weapon, [and] the threat with the weapon." Tr. 3. He argued, "[t]he CNMI, the government has asked you to consider as aggravating factors elements of the crime itself. Elements of the crime itself are not aggravating factors." Tr. 6. He cited *Commonwealth v. Borja*, 2015 MP 8 ¶ 39, explaining a sentence based on the act of the offense alone is not individualized. He asked the court to weigh mitigating and aggravating factors. *Id.* Additionally, he forewarned the court not to impose a mechanistic sentence, to which it responded in the Sentencing Order that it did not. Sentencing Order at 4. Martin sufficiently informed the court of the action he wished the court to take in response to the Commonwealth's request and therefore preserved his objection.

¶ 11 We also review parole eligibility and the allegation of mechanical sentencing for an abuse of discretion. *Commonwealth v. Jin Song Lin*, 2016 MP 11 ¶ 8. We review parole eligibility for an abuse of discretion because Martin argued in his sentencing memorandum and at the sentencing hearing that his parole eligibility should not be curtailed. Tr. 6; *Martin*, No. 17–0067 (NMI Super. Ct. Oct. 2, 2017) (Def.'s Sentencing Mem. 4). We do not reach the issue of the denial of various alternative programs as we find Martin waived his arguments. Likewise, we do not reach the issue of whether remand to a different judge for resentencing is appropriate because we find his sentence properly individualized.

IV. DISCUSSION

¶ 12 As discussed below, we do not find the court abused its discretion. We find the sentence was not mechanically imposed and was properly individualized. Before analyzing these issues, we find it necessary to address the Commonwealth's argument that we have erroneously relied on federal case law for our sentencing jurisprudence—an argument we reject.

A. Applicability of Federal Law

¶ 13 The Commonwealth argues we should disregard federal sentencing jurisprudence because we lack the analogous statutory authority upon which federal courts rely. It asserts our appellate review of criminal sentences has evolved from inapplicable and misinterpreted federal caselaw. Because federal sentences were generally unreviewable before the Sentencing Reform Act ("SRA")—to which federal courts only recognized a few exceptions—the Commonwealth contends we should not rely on federal caselaw to mete out individualized sentences. Also, according to the Commonwealth, our statutory authority in Section 4115 does not authorize a review of the severity of a sentence, and therefore, sentences should be reviewed only for procedural errors and not substantive reasonableness. Finally, the Commonwealth maintains that because the principles of individualized sentencing and non-mechanistic sentencing are similar, we should analyze them as one concept. For the reasons that follow, we reject these arguments.

¶ 14 Federal statutory sentencing reform began with the enactment of the Organized Crime Control Act of 1970 ("OCCA"). Notably, in passing the OCCA, Congress considered the "longstanding principle that sentencing courts have broad discretion to consider various types of information." *Pepper v. United States*, 562 U.S. 476, 488 (2011) (quoting *United States v. Watts*, 519 U.S. 148, 151 (1997)). Then, in 1984, Congress passed the SRA, which essentially re-codified the OCCA. 18 U.S.C. §§ 3551–3586; *Pepper*, 562 U.S. at 488–89. In doing so, Congress created the United States Sentencing Commission and introduced sentencing reform guidelines. *Id*. The SRA allowed federal courts to "consider, without limitation, any information concerning the background, character and conduct of the defendant, unless otherwise prohibited by law." *Id.* at 489 (emphasis omitted) (quoting USSG § 1B1.4 (2010)).

¶ 15 Courts have been individualizing sentences, however, since long before the codification of sentencing guidelines. Federal courts have framed individualizing sentencing as "well established," *Wasman v. United States*, 468 U.S. 559, 563 (1984), and as something that has "long been accepted in this country." *Lockett v. Ohio*, 438 U.S. 586, 602 (1978). In *Borja*, 2015 MP 8 ¶ 35, we cited *Williams v. New York*, illustrating the trial court's need to "examine and measure the relevant facts, the deterrent value of the sentence, the rehabilitation and reformation of the offender, the protection of society, and the disciplining of the wrongdoer." *Id.* (citing 337 U.S. 241, 247–48 (1949)). But even before *Williams*, courts individualized sentences. *See Woodson v. North Carolina*, 428 U.S. 280, 291–92 (1976) (referencing nineteenth-century statutes from Tennessee, Alabama, and Louisiana which granted juries discretion to withhold the death penalty and consider mitigating factors); *United States v. Central Supply Ass'n*, 6 F.R.D. 526, 534 (N.D. Ohio 1947) (recognizing that jointly trying co-conspirators "call[s] for [the] use of every safeguard to individualize each defendant in his relation to the mass"); *Com. of Pa. ex rel. Sullivan v. Ashe*, 302 U.S. 51, 54–55 (1937) (considering the defendant's character and propensity to commit crimes as well as the particular acts by which he committed the crime); *Burns v. United States*, 287 U.S. 216, 220 (1932) (holding that individualizing each case is necessary to "give . . . careful, humane and comprehensive consideration to the particular situation of each offender . . . ."). To demonstrate courts' long-standing practice of individualized sentencing, we discuss how the OCCA and SRA require balancing mitigating factors with the severity of the crime.

¶ 16 The OCCA and SRA were codifications of the federal courts' existing individualized sentencing practice. *See Roberts v. United States*, 445 U.S. 552, 567 n.7 (1980) (Marshall, J., dissenting) (noting that 18 U.S.C. § 3577 codifies sentencing standards in federal cases such as *Williams*). Federal courts have always considered mitigating factors, the character of the defendant, and the nature of the crime. The development of federal individualized sentencing jurisprudence illustrates that individualized sentencing is not inextricably tied to a statute. Whether our sentencing rules derive from caselaw or statute should not affect their force as law. Our lack of a statutory basis for such law, therefore,

does not render our jurisprudence invalid. It is beyond this Court's control to determine when and if our legislature chooses to revisit sentencing statutes. We chose aspects of federal individualized sentencing caselaw as guidance to analyze whether defendants have been properly sentenced. In doing so, we preserved the intent of the "interests of justice" encompassed in Section 4115 to render feasible and fair sentences.

¶ 17 We adopt the principles behind the long-standing practice of individualized sentencing in federal courts and apply them to our jurisprudence. We reject the argument that we have erroneously relied on federal caselaw such as *Williams*. We deliberately choose to be guided by federal courts' application of individualized sentencing in interpreting Section 4115. We will thus continue to apply our sentencing jurisprudence in addressing Martin's arguments.

B. Mechanical and Individualized Sentencing

¶ 18 Martin asserts that (1) his sentence was not individualized because an element of the crime was impermissibly used as an aggravating factor and (2) the court failed to properly weigh mitigating and aggravating factors. The mechanical sentencing policy centers on allegations of advanced preparation and form letter drafting of the Sentencing Order. We first turn to his allegations of mechanical sentencing.

¶ 19 We review mechanical sentencing using the *Woosley* three-factor test:

> (1) the judge's prior record of imposing the maximum imprisonment term for a specific offense; (2) the judge's comments indicating a predetermined policy of issuing the statutory maximum for a particular crime; and (3) the lack of reasons for the severity of punishment other than the judge's reflexive attitude.

Jin Song Lin, 2016 MP 11 ¶ 10 (citing *Woosley v. United States*, 478 F.2d 139, 144 (8th Cir. 1973)). "The existence of any one of the *Woosley* factors may be dispositive in finding a mechanical sentence if the sentencing process is based on a rigid policy." *Id*. We must examine, however, the entirety of the sentencing process, as "the existence of *Woosley* factors do not mandate finding a mechanical sentence if the trial court abides by the policy of individualizing the sentence." *Id*. (citing *Island v. United States*, 946 F.2d 1335, 1335 (8th Cir. 1991)).

¶ 20 Under the first *Woosley* factor, we examine the court's record of imposing the maximum sentence for this specific offense. Martin argues the court's Sentencing and Commitment Orders repeat "nearly verbatim" language which suggests a predetermined policy of maximizing sentencing. Martin cites *Commonwealth v. Falig*'s Sentencing and Commitment Order to illustrate this. However, citing to one former case with similar language is inadequate to prove a judge's record of imposing maximum sentences. First, judges are not restricted from drafting commitment orders ahead of sentencing, so long as the judge did not predetermine the sentence before the hearing. The court had the sentencing

memoranda over three months before the hearing to begin contemplating the appropriate sentence for the defendant. The timing of when a court issues its sentencing order, whether minutes after the oral pronouncement of the sentence or a day later, is not indicative that the judge determined the sentence before the hearing. Here, no additional facts were presented at the hearing that were not included in the sentencing memoranda, with the exception of the defendant's allocution, which the court considered. Next, Martin points to the trial court's footnote in the Sentencing Order identifying three cases where the judge imposed maximum sentences for different crimes. Sentencing Order at 4. However, citing to three instances where the maximum time was imposed does not indicate that the sentence was not properly individualized. Martin does not analyze or discuss these cases further. Martin fails to show that his sentence is indicative of a predetermined policy of issuing the statutory maximum for theft, burglary, and robbery crimes under the first *Woosley* factor.

¶ 21 Under the second *Woosley* factor, we examine whether the judge's comments indicate a predetermined policy of issuing maximum sentences. Previous sentencing orders for robbery and burglary offenses contain similar language, such as: "The people of the CNMI cry out for justice against the epidemic of thefts, burglaries, and robberies. There can be no justice without the appropriate punishment." *Commonwealth v. Lizama*, No. 13-0018 (NMI Super. Ct. March 2, 2015) (Sentencing and Commitment Order at 6); *Commonwealth v. Babauta*, No 13-0018 (NMI Super. Ct. Feb. 17, 2017) (Sentencing and Commitment Order at 6). Such boilerplate language is merely the judge's commentary and written sound bites. We discourage needless commentaries because they add little substance to sentencing orders and detract from the court's main purpose of individualizing sentences. While we acknowledge the court's use of boilerplate language, Martin fails to illustrate that the court's comments are indicative of a predetermined policy of issuing the statutory maximum for theft, burglary, and robbery crimes under the second *Woosley* factor.

¶ 22 Finally, under the third *Woosley* factor, we assess whether there were adequate reasons for the severity of punishment other than the judge's reflexive attitude. A judge must contemplate the evidence and "give some thought" to the sentence imposed. *See Jin Song Lin*, 2016 MP 11 ¶¶ 13–14; *see also Commonwealth v. Lizama*, 2017 MP 5 ¶ 12 (considering mitigating and aggravating factors, a justification for the severity of the sentence, defendant's age, prior record, and role in apprehending and convicting other criminals in related cases). Here, the court contemplated Martin's individual factors by looking at his prior criminal history, the circumstances of the crime, mitigating factors, aggravating factors such as the escalating seriousness of his criminal activities, and his status as a recidivist. *See supra* n.1. These constitute just reasons for the severity of punishment and indicate a conscious consideration of Martin's individual characteristics and the circumstances of his crime on the part of the court, rather than a reflexive attitude. We find the third *Woosley* factor not satisfied. Thus, we find Martin's sentence was not mechanically imposed. We now assess whether Martin's sentence was properly individualized.

¶ 23 Our jurisprudence on individualized sentences first requires sufficiently "consider[ing] the four sentencing pillars and examines and measures 'the relevant facts, the deterrent value of the sentence, the rehabilitation and reformation of the offender, the protection of society, and the disciplining of the wrongdoer.'" *Commonwealth v. Borja*, 2018 MP 13 ¶ 8 (citing *Commonwealth v. Borja*, 2015 MP 8 ¶ 39). While weighing mitigating and aggravating factors, the court need not discuss and evaluate every potential mitigating and aggravating factor. A court "is not required to address those factors, one by one, in some rote incantation when explicating its sentencing decision." *Commonwealth v. Hocog*, 2019 MP 5 ¶ 24 (quoting *United States v. Suárez-González*, 760 F.3d 96, 101 (1st Cir. 2014)). When considering aggravating factors, "an individualized sentence should not include essential elements of a crime." *Commonwealth v. Kapileo*, 2016 MP 1 ¶ 25. Yet, elements of a crime can be considered to the extent they demonstrate the nature and severity of the crime. *Commonwealth v. Calvo*, 2018 MP 9 ¶ 10. Further, we have held that reliance on an impermissible factor does not "render[] the entire sentence insufficient. Rather . . . where a court relies *solely* on that impermissible factor, then we may consider whether it has abused its discretion." *Taitano*, 2018 MP 12 ¶ 43; *see Kapileo*, 2016 MP 1 ¶ 25 (holding that aggravating factors should not include essential elements of the crime).

¶ 24 Here, the court properly weighed various mitigating and aggravating factors and did not abuse its discretion. Although it did cite an element of the crime as an impermissible aggravating factor (the use of a dangerous weapon in the commission of a crime),[5] a number of other permissible aggravating factors were considered. Specifically, the court considered Martin's repeat offender status, his previous seven-year sentence which failed to deter him, and his escalating, violent criminal endeavors, all of which were emphasized. *See* Sentencing Order at 5; Tr. 10. So, while Martin's use of the hammer, an element of the crime, was given consideration, the court did not solely rely on that factor. Therefore, the court did not abuse its discretion when using that factor.

¶ 25 Martin also asserts that his demonstrated remorse, acceptance of responsibility, and lack of serious injury to the victim were not adequately considered when weighing mitigating factors. We disagree. In weighing all of the factors, the court found that counsel's memoranda and arguments failed to address any "*significant* mitigating factor such as (but not limited to)" Martin's cooperation with law enforcement to ultimately convict other criminals, his youth or age, or any mental issues or illnesses. Sentencing Order at 5 (emphasis added). The court considered Martin's remorse and acceptance of responsibility, but it concluded that these factors were not significant enough to outweigh the

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[5] The court considered the use of a dangerous weapon, a hammer, in the commission of the crime. Under 6 CMC § 1411, "use or threatened use of immediate force or violence" is an element of robbery. The threatening manner in which Martin used the hammer was mentioned among several other circumstances of the crime. Sentencing Order at 5. The reference to the hammer as a "deadly weapon" in the commission of the crime, *see supra* n.3, constitutes use of an element as an impermissible aggravating factor. Sentencing Order at 2.

aggravating factors. The court balanced these factors with a discussion of facts it found relevant, such as his prior record and escalation of serious, violent criminal activity. *Id*. Those facts, as well as Martin's most recent lengthy sentence, were also used in its evaluation of the four sentencing pillars. *Id*. at 4–5. Because the relevant mitigating factors were considered, we find a reasonable person could have imposed the sentence and conclude the sentence was not an abuse of discretion. We find Martin's sentence properly individualized.

C. Parole Eligibility

¶ 26 Martin raises three arguments why it was impermissible for the court to deny parole eligibility:[6] (1) the power to grant parole should rest with the Board of Parole, not the court; (2) the court failed to give reasons for the parole restriction; and (3) permitting courts to restrict parole eligibility violates the separation of powers doctrine.[7]

¶ 27 Although the Board of Parole does have the authority to grant or deny parole, trial courts simultaneously have the statutory authority to restrict an offender's parole eligibility. Under 6 CMC § 4252, the Board of Parole has "the power to grant parole to any person convicted of a felony offense . . . after the person has completed at least one-third of the unsuspended term." The same statute grants the court explicit authority to further restrict parole eligibility: "[A]ny person whose eligibility for parole has been restricted by the sentencing court, in its discretion, shall not be eligible for parole during the period of restriction, which period may be up to the maximum sentence provided under the law." 6 CMC § 4252(a). The statute's language illustrates that the legislature vested this authority in trial courts.

¶ 28 We have consistently held courts must justify restricting an offender's parole eligibility. *Borja* 2015 MP 8 ¶ 8; *see also Commonwealth v. Lizama*, 2017 MP 5 ¶ 22 (holding that a failure to justify restricting parole eligibility constitutes an abuse of discretion). In *Jin Song Lin*, we further held that denying parole eligibility based solely on the act of the crime was an abuse of discretion. 2016 MP 11 ¶ 24.

¶ 29 Here, the court justified restricting parole "[b]ecause Defendant's most recent criminal sentence of 7 years without parole fail [sic] to change Defendant's criminal behavior, the Court fashions a sentence for a much longer period before Defendant will be eligible for parole . . . ." Sentencing Order at 6. It further

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[6] Without further parole restriction, Martin would be eligible for parole after serving six years and seven months. *See* 6 CMC § 4252.

[7] Martin cites a North Carolina appellate case, *State v. Snowden*, which concerned an instance in which the sentencing process "thwart[ed] the parole process" which is "vested in another branch of government." 215 S.E. 2d 157, 159 (N.C. Ct. App. 1975). Unlike *Snowden*, the trial court here acted on a power explicitly granted by the legislature. *See* Pub. L. No. 12-41, § 7 (2001) (amending Section 4252 to expressly acknowledge the trial court's authority to limit parole eligibility); *see also Hocog*, 2019 MP 5 ¶ 28 n.4.

balanced Martin's parole restriction by acknowledging the "victim . . . was not seriously injured." *Id.* Because the court provided reasoning for restricting parole eligibility, we hold it did not abuse its discretion.

D. Early Release, Work Release, Weekend Release, or Other Similar Programs

¶ 30 The court required the twenty-year sentence to be served "day to day, without the possibility of probation, early release, work or weekend release or any other similar program." Sentencing Order at 5. Martin argues that these programs are exclusively administered by the Department of Corrections ("DOC") and denial of his participation in them usurps the DOC's authority. The Commonwealth argues no constitutional or statutory authority limits the court's discretion to restrict participation in the programs, and that Section 4115 requires only that the court provide sufficient reasons when imposing a restriction, which it did.

¶ 31 Martin argues the court impermissibly restricted program eligibility, relying on a previous trial court order which refused to recommend that another defendant participate in similar programs at DOC. Opening Br. 10 (citing *Commonwealth v. Patrick Calvo*, CR No. 08-0105 (NMI Super. Ct. Oct. 20, 2016) (Order Denying Request for Recommendation Into Work Release Program)). Martin maintains that we should hold consistent with the *Calvo* order and restrict trial courts' ability to determine program eligibility. This order, however, is the only support Martin offers for his argument.

¶ 32 Without more, we cannot address this argument. Martin has scantly briefed this issue, failed to provide sufficient authority for the court's lack of authority, and did not adequately address this at oral argument. Accordingly, we consider this argument waived. *Commonwealth v. Calvo*, 2014 MP 10 ¶ 8 ("[W]e have repeatedly held that a party waives any issue it has not sufficiently developed. An issue is not sufficiently developed unless the party's initial brief provides legal authority or public policy, and applies the facts of the case to the asserted authority in a non-conclusory manner.").

V. CONCLUSION

¶ 33 For the foregoing reasons, we AFFIRM Martin's sentence.

SO ORDERED this 8th day of May, 2020.

/s/
ALEXANDRO C. CASTRO
Chief Justice

/s/
JOHN A. MANGLOÑA
Associate Justice

/s/
PERRY B. INOS
Associate Justice

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