

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-100491
Plaintiff-Appellee,	:	TRIAL NO. B-0905086(C)
vs.	:	<i>JUDGMENT ENTRY.</i>
DUJUAN WALKER,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar. This judgment entry is not an opinion of the court.<sup>1</sup>

Defendant-appellant Dajuan Walker appeals from the 16-year sentence of imprisonment imposed by the trial court. Walker had entered a plea of guilty to robbery with a firearm specification and to having a weapon under a disability. And the trial court accepted Walker’s pleas.

The trial court also had granted Walker’s request for a two-week delay in sentencing so that Walker could visit his family and arrange his affairs. The trial court indicated that it would impose a five-year sentence of incarceration if Walker “stay[ed] out of trouble” and “return[ed] on the sentencing date.” If Walker did not, the trial court informed him that “he would face up to 16 years in prison.” Both Walker and his trial counsel acknowledged that Walker had understood the trial court’s admonition about the consequences of failing to appear for sentencing.

---

<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

Walker failed to return for sentencing. Three months later, Walker was arrested and brought before the court. The trial court noted that Walker had been charged with committing a murder while he had been a fugitive. It imposed the promised sentence consisting of an eight-year maximum prison term for robbery, a second-degree felony, three years' imprisonment for the accompanying firearm specification, and a five-year maximum prison term for having a weapon under a disability, a third-degree felony. Each sentence was ordered to be served consecutively, for an aggregate prison term of 16 years.

In his first assignment of error, Walker argues that a 16-year prison term “for an offense with relatively minor damages” constitutes a cruel and unusual punishment proscribed by the Eighth Amendment to the U.S. Constitution.

Generally, a sentence such as this one that falls within the statutory ranges provided by statute cannot amount to cruel and unusual punishment.<sup>2</sup> Here, the trial court had before it information gleaned from the indictment, the bill of particulars, and the prosecutor's statement that Walker and several accomplices had robbed two victims at gunpoint, and that one of the victims had been pistol-whipped. In light of these facts, Walker's aggregate sentence is not so disproportionate to the offenses that it “shock[s] the sense of justice of the community.”<sup>3</sup> The assignment of error is overruled.

Walker's fourth assignment of error, in which he argues that he was entitled to the minimum prison term available under the rule of *State v. Foster*, is overruled.<sup>4</sup> Under Ohio's sentencing laws, a trial court has discretion to impose any sentence within the

---

<sup>2</sup> See *McDougle v. Maxwell* (1964), 1 Ohio St.2d 68, 69, 203 N.E.2d 334.

<sup>3</sup> *State v. Weitbrecht*, 86 Ohio St.3d 368, 371, 1999-Ohio-113, 715 N.E.2d 167, quoting *McDougle v. Maxwell*, 1 Ohio St.2d at 70, 203 N.E.2d 334; see, also, *State v. Hairston*, 118 Ohio St.3d 289, 2008-Ohio-2338; 888 N.E.2d 1073, ¶14.

<sup>4</sup> 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470.

statutory range for the crime committed, including the discretion to impose more than the minimum sentence.<sup>5</sup>

In his second and third assignments of error, Walker argues that the trial court erred in imposing maximum, consecutive sentences without considering the purposes and principles of felony sentencing.<sup>6</sup> We conduct a two-part review of Walker's sentence.<sup>7</sup> First we must determine whether the sentence imposed was contrary to law.<sup>8</sup> Then, if the sentence was not contrary to law, we must determine whether the trial court abused its discretion in imposing it.<sup>9</sup>

Here, the sentence imposed was not contrary to law. The term of imprisonment imposed for each offense was within the range provided by statute.<sup>10</sup> And the trial court was not obligated to engage in judicial fact-finding prior to making the terms consecutive.<sup>11</sup> Although the trial court did not specifically state that it had considered R.C. 2929.11 and 2929.12, we may presume that it did.<sup>12</sup> Having accepted Walker's pleas of guilty to these offenses, the trial court was well acquainted with the facts surrounding the crimes. On the state of this record, we cannot say that the trial court acted unreasonably, arbitrarily, or unconscionably in imposing the sentence.<sup>13</sup> The second and third assignments of error are overruled.

Therefore, the judgment of the trial court is affirmed.

---

<sup>5</sup> See *State v. Mathis*, 109 Ohio St.3d 54, 2006-Ohio-855, 846 N.E.2d 1, paragraph three of the syllabus; see, also, *State v. Foster*, paragraph seven of the syllabus.

<sup>6</sup> See R.C. 2929.11 and 2929.12.

<sup>7</sup> See *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124.

<sup>8</sup> See *id.* at ¶14.

<sup>9</sup> See *id.* at ¶17.

<sup>10</sup> See R.C. 2929.14(A); see, also, *State v. Kalish* at ¶11-12.

<sup>11</sup> See *State v. Kalish* at ¶11; see, also, *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470, ¶100; *State v. Hodge*, \_\_\_ Ohio St.3d \_\_\_, 2010-Ohio-6320, \_\_\_ N.E.2d \_\_\_, paragraphs two and three of the syllabus.

<sup>12</sup> See *State v. Kalish* at fn. 4.

<sup>13</sup> See *State v. Adams* (1980), 62 Ohio St.2d 151, 157, 404 N.E.2d 144.

**OHIO FIRST DISTRICT COURT OF APPEALS**

---

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**HILDEBRANDT, P.J., SUNDERMANN and CUNNINGHAM, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on March 11, 2011

per order of the Court \_\_\_\_\_  
Presiding Judge