

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

STATE OF OHIO,	:	APPEAL NO. C-100739
	:	TRIAL NOS. B-1000533
Plaintiff-Appellee,	:	B-1000681
vs.	:	
	:	<i>JUDGMENT ENTRY.</i>
TIMOTHY GREENLEE,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Defendant-appellant Timothy Greenlee pleaded guilty in the case numbered B-1000681 to four counts of robbery, three of which were accompanied by a firearm specification, and one count of failure to comply with the order or signal of a police officer. The trial court sentenced Greenlee to 20 years in prison in the case numbered B-1000681. Greenlee pleaded guilty in the case numbered B-1000533 to trafficking in marijuana. The trial court sentenced Greenlee to five years in prison, which was made concurrent with the sentence imposed in the case numbered B-1000681. These cases have been consolidated on appeal.

In Greenlee’s single assignment of error, he argues that the trial court erred in imposing consecutive sentences in the case numbered B-1000681, for a total prison term of 20 years. In reviewing Greenlee’s sentence, we must determine whether the sentence imposed was contrary to law, and if the sentence was not contrary to law,

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 11.1.1.

then we must determine whether the trial court abused its discretion in imposing it.² Although trial courts have discretion to impose a prison sentence within the statutory range for an offense, trial courts must still consider the applicable statutes.³ But the trial court need not specifically state on the record that it has considered all applicable statutes, including R.C. 2929.01 et seq., because we will presume that it did.⁴

As Greenlee concedes, Greenlee's sentence is within the statutory sentencing range and is not otherwise contrary to law. Before Greenlee pleaded guilty, the trial court informed Greenlee that, by pleading guilty, he could be sentenced to a maximum of 45 years in prison. Moreover, the trial court listened to trial counsel's argument in mitigation and also heard from Greenlee's family members. The trial court also ordered a presentence-investigation report and victim-impact statements. Therefore we cannot say that the trial court acted unreasonably, arbitrarily, or unconscionably in imposing its sentence.⁵ We overrule Greenlee's assignment of error.

Before disposing of Greenlee's appeal, we must address an inconsistency in the judgment entry in the case numbered B-1000533. The entry provides that Greenlee was sentenced to five years in prison on count one, but the entry then indicates that Greenlee was sentenced to a total aggregate sentence of two years in prison. We are convinced that the two-year aggregate sentence was a clerical error. According to the transcript of the sentencing hearing, the trial court sentenced Greenlee to five years in prison in the case numbered B-1000533. A clerical mistake due to oversight or omission can be corrected at any time pursuant to Crim.R. 36.

² *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124, at ¶14 and 17.

³ *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470, paragraph seven of syllabus.

⁴ *State v. Mathis*, 109 Ohio St.3d 54, 2006-Ohio-855, 846 N.E.2d 1, at ¶38.

⁵ *State v. Adams* (1980), 62 Ohio St.2d 151, 157, 404 N.E.2d 144.

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Furthermore, App.R. 9(E) allows this court to direct the trial court to correct such errors.⁶ Therefore, we remand this case to the trial court to correct this clerical error.

The judgment of the trial court is affirmed, and the cause is remanded for correction of the record to reflect a total aggregate sentence of five years in the department of corrections in the case numbered B-1000533.

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., HENDON and FISCHER, JJ.

To the Clerk:

Enter upon the Journal of the Court on June 8, 2011

per order of the Court _____
Presiding Judge

⁶ *State v. Simmons*, 1st Dist. No. C-050817, 2006-Ohio-5760, at ¶24.