

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

STATE OF OHIO,	:	APPEAL NOS. C-110500
		C-110501
Plaintiff-Appellee,	:	C-110502
		C-110503
vs.	:	TRIAL NOS. B-1007785-A
		B-1008283
LARRY HAYNES,	:	B-1008379
		B-1008633
Defendant-Appellant.	:	

JUDGMENT ENTRY.

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op.3(A); App.R.11.1(E); Loc.R.11.1.1.

Defendant-appellant Larry Haynes was indicted under four separate case numbers. In the case numbered B-1007785-A, Haynes was charged with seven counts of theft from an elderly person or disabled adult in violation of R.C. 2913.02(A)(2) and one count of theft in violation of R.C. 2913.02(A)(2). In the cases numbered B-1008283, B-1008379, and B-1008633, Haynes was charged with one count of theft in violation of R.C. 2913.02(A)(2). The charges stemmed from Haynes involvement in an appliance repair scam.

Following a plea hearing, Haynes withdrew his not-guilty pleas and pleaded guilty to all the charges. The trial court continued the case for a presentence investigation, victim impact statements, and a court clinic evaluation. The trial court sentenced Haynes to a term of 12 months' incarceration for each of the eight theft counts in the case numbered B-1007785-A. The trial court ordered the terms

be served consecutively for a total sentence of eight years in prison. The trial court sentenced Haynes to 12 months' incarceration for the theft offense in the case numbered B-1008283, to 12 months' incarceration for the theft offense in the case numbered B-1008379, and to 12 months' incarceration for the theft offense in the case numbered B-1008633. The trial court ordered the sentence imposed in the case numbered B-1007785-A to be served concurrently with the sentences imposed in the cases numbered B-1008283, B-1008379, and B-1008633, for an aggregate sentence of eight years in prison. The trial court's judgment entry was journalized on July 19, 2011. Haynes now appeals.

In his sole assignment of error, Haynes argues that his sentence is contrary to law because the trial court mentioned nothing about the need to rehabilitate him, and it failed to consider whether his sentence was consistent with sentences imposed for similar crimes as required by R.C. 2929.11(B). But the Ohio Supreme Court has held that R.C. 2929.11 does not mandate judicial fact finding. *See State v. Wilson*, 129 Ohio St.3d 214, 2011-Ohio-2669, 951 N.E.2d 381, ¶ 31. Thus, reviewing courts may presume that a trial court has considered these factors, unless a defendant can identify facts and circumstances in the record that demonstrate otherwise. *See State v. Love*, 194 Ohio App.3d 16, 2011-Ohio-2224, 954 N.E.2d 202, ¶ 14 (1st Dist.); *State v. Phelps*, 1st Dist. No. C-100096, 2011-Ohio-3144, ¶ 41; *see also State v. Franklin*, 182 Ohio App.3d 410, 2009-Ohio-2664, 912 N.E.2d 1197, ¶ 10-16 (10th Dist.).

At Haynes's sentencing hearing, the trial court told Haynes that it "had considered the purposes of sentencing * * * as well [as] the provisions of the Ohio Revised Code." The trial court further stated that it had specifically considered the risk that Haynes would re-offend, the cause for incarcerating him, and the need to protect the public. The trial court told Haynes that it was imposing a prison term

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because Haynes had targeted a large number of elderly victims, he had just served a prison term for offenses stemming from a similar appliance repair scam in South Dakota, and he had refused to accept responsibility for his actions. On the state of this record, Haynes has not demonstrated that his sentence is contrary to law. *See State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124, ¶ 4. We, therefore, overrule his sole assignment of error and affirm the judgment of the trial court.

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

SUNDERMANN, P.J., HENDON and DINKELACKER, JJ.

To the clerk:

Enter upon the journal of the court on May 16, 2012

per order of the court _____.
Presiding Judge