

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

STATE OF OHIO,	:	APPEAL NO. C-120393
	:	TRIAL NO. B-1106171
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
BRIAN RYAN,	:	
Defendant-Appellant.	:	

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. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Following a guilty plea, defendant-appellant Brian Ryan was convicted of robbery, in violation of R.C. 2911.02(A)(2), a second-degree felony. The trial court imposed a prison term of five years. Ryan now appeals.

In his sole assignment of error, Ryan argues that the trial court abused its discretion by failing to properly consider the sentencing factors set forth in R.C. 2929.12, and that his sentence, which was within the statutory range for the offense, was an abuse of the trial court’s discretion. *See State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, 896 N.E.2d 124.

R.C. 2929.12 is not a fact-finding statute. *Id.* at ¶ 17. In this case, although the trial court did not specifically state that it had considered R.C. 2929.12, it did state that it had considered “the factors” set forth in the Ohio Revised Code. And we can presume that the trial court considered the factors set forth in the statute, unless the record demonstrates

OHIO FIRST DISTRICT COURT OF APPEALS

otherwise. *State v. Love*, 194 Ohio App.3d 16, 2011-Ohio-2224, 954 N.E.2d 202, ¶ 14 (1st Dist.), citing *Kalish* at fn. 4.

The trial court was acquainted with the facts surrounding the crime, and it noted that Ryan, who tested very high for recidivism, had previously been to prison. On the state of this record, we cannot say that the trial court abused its discretion in imposing a five-year prison term. *See Love* at ¶ 22. Accordingly, we overrule the assignment of error.

Therefore, we affirm the trial court's judgment.

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

CUNNINGHAM, P.J., DINKELACKER and FISCHER, JJ.

To the clerk:

Enter upon the journal of the court on March 22, 2013

per order of the court _____.
Presiding Judge