

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

STATE OF OHIO,	:	APPEAL NO. C-130251
	:	TRIAL NO. B-0808031
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
WILLIAM CAMPBELL,	:	
	:	
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.

Defendant-appellant William Campbell was convicted of (1) operating a motor vehicle under the influence of alcohol (“OVI”), (2) an OVI-based aggravated vehicular homicide, and (3) a recklessness-based aggravated vehicular homicide, with accompanying specifications. In *State v. Campbell*, 1st Dist. Hamilton No. C-090875, 2012-Ohio-4231, we held that Campbell’s vehicular-homicide convictions were allied offenses of similar import. We therefore vacated the sentences imposed on those counts and remanded the cause for resentencing. We affirmed the trial court’s judgment in all other respects.

On remand, the trial court conducted a sentencing hearing, merged the aggravated-vehicular-homicide counts, and sentenced Campbell on the OVI-based vehicular-homicide count. The trial court ordered Campbell’s aggravated-vehicular -

homicide sentence to run consecutively to the trial court's previously imposed five-year-OVI sentence. This appeal followed.

In Campbell's first assignment of error, he argues that the trial court failed to make the requisite findings under R.C. 2929.14(C)(4) before imposing consecutive terms of imprisonment. This argument has no merit. When sentencing Campbell, the court stated that it had reviewed all the findings necessary for the imposition of consecutive sentences. It then stated its findings on the record. And while the court did not use the exact language contained in R.C. 2929.14(C)(4), it is evident from our review of the sentencing hearing that the court complied with this statute. This assignment of error is therefore overruled on the authority of *State v. Alexander*, 1st Dist. Hamilton Nos. C-110828 and C-110829, 2012-Ohio-3349.

In his second assignment of error, Campbell contends that the trial court's five-year sentence for his OVI conviction, a third-degree felony, is contrary to law. Because we did not vacate Campbell's OVI sentence in *Campbell*, 1st Dist. Hamilton No. C-090875, 2012-Ohio-4231, it was not subject to review by the trial court on remand and is therefore beyond the scope of this appeal. *State v. Wilson*, 129 Ohio St.3d 214, 2011-Ohio-2669, 951 N.E.2d 381, ¶ 15. However, to the extent that Campbell appears to argue that the OVI sentence is void, we hold that it is not. While the maximum sentence for a third-degree felony is generally three years, because Campbell was convicted of a multiple-prior-OVI specification under R.C. 2941.1413, the trial court's five-year sentence was authorized by law. *See State v. Sturgill*, 12th Dist. Clermont Nos. CA2013-01-002 and CA2013-01-003, 2013-Ohio-4648. We overrule this assignment of error.

In his third assignment of error, Campbell asserts that the trial court erred when it: (1) informed Campbell that he was ineligible for transitional control under

**OHIO FIRST DISTRICT COURT OF APPEALS**

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R.C. 2967.26, (2) failed to inform Campbell that he could earn days of credit under R.C. 2967.193, and (3) failed to inform Campbell that he may be eligible to perform community service in lieu of paying court costs. None of these arguments has merit.

First, because Campbell stands convicted of aggravated vehicular homicide, he is indeed ineligible for transitional control. Ohio Adm.Code 5120-12-01(F)(12). Second, despite Campbell's assertion to the contrary, the record reflects that the court did inform Campbell that he may be eligible to earn days of credit under R.C. 2967.193. We note that the current version of R.C. 2929.14(D), effective September 28, 2012, no longer requires a trial court to inform a defendant of the possibility of earning days of credit. And in any event, under 2929.13(F)(4), Campbell is ineligible to earn days of credit due to his aggravated-vehicular-homicide conviction. Finally, because Campbell was sentenced after R.C. 2947.23(A)(1) had been amended by 2012 Sub.H.B. No. 247, and because he was sentenced to prison instead of community control, the trial court was under no duty to inform Campbell that he could be eligible to perform community service in lieu of paying court costs. *See State v. Bailey*, 1st Dist. Hamilton Nos. C-130245 and C-130246, 2013-Ohio-5512. Campbell's third assignment of error is overruled.

In his fourth assignment of error, Campbell contends that his OVI conviction and his aggravated-vehicular-homicide conviction are allied offenses of similar import. We addressed this issue in *Campbell*, 1st Dist. Hamilton No. C-090875, 2012-Ohio-4231, at ¶ 15, and held that the OVI verdict was not predicated upon the same conduct as either of the aggravated-vehicular-homicide verdicts, and therefore that it was not an allied offense of similar import to either. *See State v. Johnson*, 128 Ohio St.3d 153, 2010-Ohio-6314, 942 N.E.2d 1061. This holding is the law of the

**OHIO FIRST DISTRICT COURT OF APPEALS**

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case. *See Nolan v. Nolan*, 11 Ohio St.3d 1, 3, 462 N.E.2d 410 (1984). Campbell's fourth assignment of error is overruled.

In his fifth assignment of error, Campbell claims that he was not afforded a sentencing hearing as required by R.C. 2929.19(A) and (B). Specifically, Campbell contends that the trial court should have considered his argument that he was innocent before it imposed sentence. But the trial court correctly stated that the issue of Campbell's guilt or innocence was not properly before the court. The case had been remanded for sentencing, only. *Campbell* at ¶ 16. Campbell's fifth assignment of error is overruled.

The trial court's judgment is affirmed.

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., HILDEBRANDT and FISCHER, JJ.**

To the clerk:

Enter upon the journal of the court on May 16, 2014  
per order of the court \_\_\_\_\_.  
Presiding Judge