

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

STATE OF OHIO,	:	APPEAL NO. C-150418
	:	TRIAL NO. B-1401437
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
MASON RIFFE,	:	
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 Mason Riffe pleaded guilty to one count of conspiracy to commit murder, in violation of R.C. 2923.01(A)(1), a felony of the first degree. In 2012, the complaining witness in this case had received a civil protection order against Riffe. He was convicted of violating that order two weeks after it was issued, when he repeatedly contacted her and told her that he was not afraid of the police. Riffe was sentenced to 180 days in jail. Within weeks of his release from jail, he again contacted the complaining witness, and was again convicted of violating the protection order. He was sentenced to prison for 18 months. One month after he was released from prison, Riffe again contacted the complaining witness, and was again charged with violating the protection order. While in the Hamilton County Justice Center awaiting trial on that charge, Riffe conspired with two individuals to have the complaining witness killed. As a result of his guilty plea, the trial court sentenced Riffe to seven years in prison. The underlying felony charge of violating the protection order was dismissed.

In one assignment of error, Riffe argues that the trial court failed to properly consider the sentencing factors set forth in R.C. 2929.11 and 2929.12 and, as a result,

he received an excessive sentence. We may modify or vacate Riffe's sentence only if "we clearly and convincingly find that either (1) the record does not support the mandatory sentencing findings, or (2) that the sentence is otherwise contrary to law." *State v. White*, 2013-Ohio-4225, 997 N.E.2d 629, ¶ 11 (1st Dist.). Because no findings were required, our review is limited to whether Riffe's sentence is clearly and convincingly contrary to law.

R.C. 2929.11 requires a trial court, in imposing a felony sentence, "to be guided by the overriding purposes of felony sentencing." R.C. 2929.12 confers upon the trial court the "discretion to determine the most effective way to comply with the purposes and principles of sentencing" and sets forth multiple factors that the court, in exercising its discretion, must "consider." But we will presume that the court considered these statutes, even from a silent record, unless the appellant can demonstrate affirmatively that the court failed to do so. *See State v. Alexander*, 1st Dist. Hamilton Nos. C-110828 and C-110829, 2012-Ohio-3349.

In this case, Riffe continued to contact the complaining witness, even after going to prison for doing so. He had been convicted of a misdemeanor and a felony as a result of his demonstrated unwillingness to follow the orders of the court, and was awaiting trial on another felony charge when he committed the offense in this case. The trial court considered "the evidence as it exists, and the safety of our community, the safety of [the complaining witness], along with the interests of Mr. Riffe and the people who obviously love and care for him so deeply."

Here, it is clear that the trial court considered the relevant provisions of R.C. 2929.11 and 2929.12 in fashioning Riffe's sentence. We overrule Riffe's sole assignment of error and affirm the judgment of the trial court.

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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.

CUNNINGHAM, P.J., DEWINE and MOCK, JJ.

To the clerk:

Enter upon the journal of the court on April 22, 2016
per order of the court _____.

Presiding Judge

