

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

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| STATE OF OHIO | : | APPEAL NO. C-190460 |
| | : | TRIAL NO. B-1706769 |
| Plaintiff-Appellee, | : | |
| | : | <i>JUDGMENT ENTRY.</i> |
| vs. | : | |
| RONTARIUS SEABON, | : | |
| | : | |
| Defendant-Appellant. | : | |

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Rontarius Seabon was originally charged with one count of trafficking in heroin, three counts of aggravated trafficking in drugs, one count of aggravated possession of drugs, and one count of having weapons while under a disability. Under the terms of a plea agreement, he pleaded guilty to reduced charges of one count of trafficking in heroin under former R.C. 2925.03(A) and one count of aggravated trafficking in drugs under former R.C. 2925.03(A)(1), both third-degree felonies. The remaining counts were dismissed. The trial court sentenced Seabon to 36 months of imprisonment on each of the two counts, to be served consecutively. This appeal followed.

Seabon presented two assignments of error for review, which we address out of order. In his second assignment of error, he contends that the record does not support the maximum sentences imposed by the court. He argues that the court did

not consider the principles and purposes of sentencing under former R.C. 2929.11 and the seriousness and recidivism factors under R.C. 2929.12. This assignment of error is not well taken.

Before a reviewing court can modify or vacate a felony sentence, it must clearly and convincingly find that the sentence is contrary to law or that the record does not support the sentencing court's findings. Former R.C. 2953.08(G)(2); *State v. Marcum*, 146 Ohio St.3d 516, 2016-Ohio-1002, 59 N.E.3d 1231, ¶ 1.

The sentences imposed were within the statutory ranges for third-degree felonies. *See* former R.C. 2929.14(A)(3). While the trial court is required to consider the purposes and principles of sentencing and the various factors under former R.C. 2919.11 and 2929.12, it need not make specific findings. We can presume from a silent record that the trial court considered the appropriate factors unless the defendant affirmatively shows that the court has failed to do so. *State v. Cephas*, 1st Dist. Hamilton No. C-180105, 2019-Ohio-52, ¶ 42.

Seabon has not demonstrated that the court did not consider the appropriate factors. He relies solely on the factors in mitigation that he presented to the court. He ignores the aggravating factors presented by the state, such as that he committed the charged offenses while he was on community control for another third-degree felony and that he was originally charged with first- and second-degree felonies. The trial court specifically stated that it had considered the presentence investigation, the arguments of counsel, and the statements of Seabon and his fiancée. Under the circumstances, we cannot hold that the trial erred in imposing the maximum sentences on the two counts to which he pleaded guilty. Therefore, we overrule his second assignment of error.

In his first assignment of error, Seabon contends that the trial court failed to make the necessary findings to support consecutive sentences. He argues that the trial court did not discuss the proportionality factor. This assignment of error is not well taken.

In Ohio, there is a statutory presumption in favor of concurrent sentences for most felony offenses. R.C. 2929.41(A); *State v. Arnold*, 1st Dist. Hamilton Nos. C-180664 and C-180670, 2020-Ohio-2706, ¶ 78. The trial court may overcome that presumption by making the findings set forth in former R.C. 2929.14(C). *Arnold* at ¶ 78.

When imposing consecutive sentences, a trial court must make the required findings as part of the sentencing hearing and incorporate those findings in the sentencing entry. *State v. Bonnell*, 140 Ohio St.3d 209, 2014-Ohio-3177, 16 N.E.3d 659, syllabus; *State v. Walker*, 1st Dist. Hamilton No. C-190193, 2020-Ohio-1581, ¶ 68. The court need not use “talismanic words” but the record must show that the court engaged in the requisite analysis and that the evidence supports the findings. *Walker* at ¶ 68; *Cephas*, 1st Dist. Hamilton No. C-180105, 2019-Ohio-52, at ¶ 43.

Seabon relies on *State v. Beasley*, 153 Ohio St.3d 497, 2018-Ohio-493, 108 N.E.2d 1028, and *State v. Jackson*, 1st Dist. Hamilton Nos. C-180245 and C-180246, 2019-Ohio-3299, in which the courts incorporated the findings in the judgment entries, but failed to make any statements regarding proportionality at the sentencing hearings. But in this case, the record shows that the trial court made the appropriate findings, and it specifically stated that the aggregate sentence “is not disproportionate to the seriousness of the offender’s conduct and the danger the offender poses to the public.” The trial court “has no obligation to state reasons in support of its findings * * *.” *Bonnell* at syllabus; *State v. Brown*, 2019-Ohio-1455,

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129 N.E.3d 524, ¶ 28 (1st Dist.). Therefore, we overrule Seabon's first assignment of error and affirm the trial court's judgment.

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

MOCK, P.J., BERGERON and WINKLER, JJ.

To the clerk:

Enter upon the journal of the court on August 5, 2020
per order of the court _____.
Presiding Judge