

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE OF OHIO,	:	
	:	
Plaintiff-Appellee,	:	No. 107313
	:	
v.	:	
	:	
RA'SHAWN WILSON,	:	
	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: April 4, 2019

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-17-623511-B

Appearances:

Stephen L. Miles, *for appellant.*

Michael C. O'Malley, Prosecuting Attorney, and Ryan J.
Bokoch, Assistant Prosecuting Attorney, *for appellee.*

MARY J. BOYLE, P.J.:

{¶ 1} Defendant-appellant, Ra'Shawn Wilson, appeals his sentence. He raises one assignment of error for our review:

The trial court erred by sentencing the appellant to consecutive sentences.

{¶ 2} Finding no merit to his argument, we affirm.

I. Procedural History and Factual Background

{¶ 3} In November 2017, Wilson was indicted on 13 counts, including 10 counts of felonious assault, two counts of discharging a firearm on or near prohibited premises, and one count of improperly discharging a firearm into a habitation. All counts carried one- and three-year firearm specifications. The charges arose after Wilson and his codefendant fired shots at a Sunoco gas station on June 2, 2017, hitting one person in his left arm. Further, on August 5, 2017, Wilson and his codefendant shot at a different person in his apartment, hitting him in his left cheek. There was no dispute that Wilson fired the shots at the gas station, but it was unknown who fired the shots with respect to the second shooting.

{¶ 4} In March 2018, Wilson withdrew his former plea of not guilty and pleaded guilty to an amended indictment of one count of felonious assault in violation of R.C. 2903.11(A)(1) with a three-year firearm specification and one count of felonious assault in violation of R.C. 2903.11(A)(1) without any specifications. The remaining counts were nolle.

{¶ 5} At the sentencing hearing, the trial court first heard from defense counsel who had also filed a sentencing memorandum before the hearing. Defense counsel informed the trial court that Wilson did not have a prior criminal history. Wilson also graduated from Success Tech Academy, worked as an intern at the Cuyahoga County Public Defender's Office for one summer, and always had

verifiable employment. Wilson had been working at Applebee's when he was arrested, but he had previously worked at K-Mart, Wal-Mart, and Circle K. When Wilson finished high school, he attended Cuyahoga Community College for three semesters, taking classes in sociology and criminal justice. According to defense counsel, Wilson had been diagnosed with post-traumatic stress disorder and depression due to being "taken from his [biological] mother." Wilson was eventually adopted, but Wilson blamed his adopted mother for taking him away from his biological family. Defense counsel further stated that although Wilson "grew up in a very tough neighborhood," he did not use alcohol or drugs. Wilson did get involved with the wrong crowd, however, which led to the current offenses.

{¶ 6} Two people wrote letters to the trial court on Wilson's behalf. The first was an assistant Cuyahoga County public defender, who mentored Wilson during and after he interned at the public defender's office. Wilson's mother also wrote a letter on his behalf.

{¶ 7} Wilson apologized to the trial court, his mother, and his mentor. Wilson told the court that when he got out of prison, he would not "be back in this situation." Wilson explained that he made an irrational decision based on fear and that he was taking responsibility for it.

{¶ 8} The state acknowledged that Wilson's situation was "much more tragic" than his codefendant's because Wilson "clearly [had] people who loved him" and "tried to equip him [with] the tools he would need to succeed in his life." But the state informed the trial court that the shooting at the gas station took place when

there were other people around who “could have been seriously hurt or even killed.” The state also told the court that the second shooting, which took place just two months after the first, involved a victim who was shot in the face and could have “very easily been a homicide.” The state explained that these shootings were not “an isolated incident or a one-time thing.”

{¶ 9} The trial court sentenced Wilson to three years in prison for the firearm specification and ordered that it be served prior to and consecutive to seven years for the first felonious assault count. The trial court then sentenced Wilson to five years for the other felonious assault count and ordered that the two counts be served consecutive to each other, for a total of 15 years in prison.

{¶ 10} The trial court found it “very troubling” that these crimes occurred “over a span of two months” and included multiple shootings. The court found that consecutive sentences were not “disproportionate to the seriousness” of Wilson’s “conduct, arming [himself] and traveling about the neighborhood shooting * * * guns.” The court stated that although Wilson did not have a prior criminal history, he attended nine different schools due to his behavior. The court also found that “at least two of the offenses were committed in one or more courses of conduct, and was so great or unusual that no single term of prison would reflect the seriousness of the offender’s conduct.”

{¶ 11} The trial court imposed court costs and notified Wilson that he would be subject to a mandatory period of three years of postrelease control upon his release from prison. It is from this judgment that Wilson now appeals.

II. Consecutive Sentences

{¶ 12} In his sole assignment of error, Wilson argues that the trial court failed to make the required findings under R.C. 2929.14(C)(4) before imposing consecutive sentences.

{¶ 13} An appellate court must conduct a meaningful review of the trial court's sentencing decision. *State v. Johnson*, 8th Dist. Cuyahoga No. 97579, 2012-Ohio-2508, ¶ 6, citing *State v. Hites*, 3d Dist. Hardin No. 6-11-07, 2012-Ohio-1892. R.C. 2953.08(G)(2) provides that our review of consecutive sentences is not an abuse of discretion. *State v. Marcum*, 146 Ohio St.3d 516, 2016-Ohio-1002, 59 N.E.3d 1231, ¶ 22, citing R.C. 2953.08(G)(2). Instead, an appellate court must “review the record, including the findings underlying the sentence or modification given by the sentencing court.” R.C. 2953.08(G)(2). If an appellate court clearly and convincingly finds either that (1) “the record does not support the sentencing court's findings under [R.C. 2929.14(C)(4)]” or (2) “the sentence is otherwise contrary to law,” then “the appellate court may increase, reduce, or otherwise modify a sentence * * * or may vacate the sentence and remand the matter to the sentencing court for resentencing.” *Id.*

{¶ 14} R.C. 2929.14(C)(4) provides that in order to impose consecutive sentences, the trial court must find (1) that consecutive sentences are necessary to protect the public from future crime or to punish the offender, (2) that such

sentences would not be disproportionate to the seriousness of the conduct and to the danger the offender poses to the public, and (3) that one of the following applies:

(a) the offender committed one or more of the multiple offenses while awaiting trial or sentencing, while under a sanction, or while under postrelease control for a prior offense;

(b) at least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the offenses was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the offender's conduct; or

(c) the offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender.

{¶ 15} A trial court is not only required to make the statutory findings for consecutive sentences at the sentencing hearing, but it is also required to incorporate those findings into its sentencing entry. *State v. Bonnell*, 140 Ohio St.3d 209, 2014-Ohio-3177, 16 N.E.3d 659, syllabus.

{¶ 16} Wilson concedes that the trial court made two of the consecutive sentences findings. He argues, however, that the trial court failed to make the finding that the consecutive sentences were necessary to protect the public from future crime or to punish him.

{¶ 17} The Ohio Supreme Court expressly rejected the claim that a trial court must give a "talismanic incantation of the words of the statute" when imposing consecutive sentences. *Id.* at ¶ 37. Indeed, the Supreme Court stated that "a word-for-word recitation of the language of the statute is not required, and as long as the reviewing court can discern that the trial court engaged in the correct analysis and

can determine that the record contains evidence to support the findings, consecutive sentences should be upheld.” *Id.* at ¶ 29.

{¶ 18} After a review of the sentencing hearing in this case, we find that the trial court made the required R.C. 2929.14(C)(4) findings. Although the trial court did not use the exact language that consecutive sentences were necessary to protect the public from future crime or to punish Wilson, this court can discern from the record that the trial court engaged in the proper analysis and made the required findings. The court specifically stated that it was imposing consecutive sentences because the multiple shootings took place over the span of just two months and because of the seriousness of Wilson’s conduct of “traveling about the neighborhood shooting [his] guns.” We can discern from this record that the trial court found that consecutive sentences were necessary to protect the public and punish Wilson. Finally, the record supports the trial court’s consecutive sentence findings, and the trial court placed its consecutive sentence findings in the sentencing entry.

{¶ 19} Accordingly, we overrule Wilson’s sole assignment of error.

{¶ 20} Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue of this court directing the common pleas court to carry this judgment into execution. The defendant’s conviction having been affirmed, any bail pending is terminated. Case remanded to the trial court for execution of sentence.

**A certified copy of this entry shall constitute the mandate pursuant to Rule 27
of the Rules of Appellate Procedure.**

MARY J. BOYLE, PRESIDING JUDGE

**PATRICIA ANN BLACKMON, J., and
KATHLEEN ANN KEOUGH, J., CONCUR**