

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO, :
 :
 Plaintiff-Appellee, :
 : No. 107979
 v. :
 :
 STACY SHEREE REED, :
 :
 Defendant-Appellant. :

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: August 29, 2019

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-18-625465-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting
Attorney, and Kevin E. Bringman, Assistant Prosecuting
Attorney, *for appellee*.

Myriam A. Miranda, *for appellant*.

MARY EILEEN KILBANE, A.J.:

{¶ 1} Defendant-appellant, Stacy Sheree Reed (“Reed”), appeals her sentence for felonious assault and burglary. For the reasons set forth below, we affirm.

{¶ 2} In March 2018, Reed was charged with one count each of aggravated burglary, attempted murder, and felonious assault. In October 2018, under a plea agreement with the state, Reed pled guilty to an amended charge of burglary, a third-degree felony, and to felonious assault, a second-degree felony. In exchange for the pleas, the state dismissed the charge of attempted murder. Reed agreed to have no contact with the victim and to pay restitution.

{¶ 3} In December 2018, the trial court held a sentencing hearing. The prosecutor, defense counsel, the victim and her fiancée, and Reed, each addressed the court. The trial court sentenced Reed to an aggregate prison term of four years, comprised of concurrent terms of four years on the felonious assault charge and two years on the burglary charge.

{¶ 4} Reed now appeals, assigning the following single error for review.

Assignment of Error

[Reed's] sentence is contrary to law and not supported by the record.

{¶ 5} In her sole assignment of error, Reed argues her sentence was contrary to law and not supported by the record.

{¶ 6} Our review of felony sentences is governed by R.C. 2953.08(G)(2). Pursuant to R.C. 2953.08(G)(2), “an appellate court may vacate or modify a felony sentence on appeal only if it determines by clear and convincing evidence that the record does not support the trial court’s findings under relevant statutes or that the sentence is otherwise contrary to law.” *State v. Marcum*, 146 Ohio St.3d 516, 2016-Ohio-1002, 59 N.E.3d 1231, ¶ 1. A sentence is contrary to law if (1) the sentence falls

outside the statutory range for the particular degree of offense, or (2) the trial court failed to consider the purposes and principles of felony sentencing set forth in R.C. 2929.11 and the sentencing factors in R.C. 2929.12. *State v. Hinton*, 8th Dist. Cuyahoga No. 102710, 2015-Ohio-4907, ¶ 10, citing *State v. Smith*, 8th Dist. Cuyahoga No. 100206, 2014-Ohio-1520, ¶ 13.

{¶ 7} In the instant matter, Reed argues it is unclear whether the trial court considered the purposes and principles of sentencing under R.C. 2929.11, because it failed to mention it in the sentencing entry.

{¶ 8} R.C. 2929.11(A) establishes that the overriding purposes of felony sentencing are to protect the public from future crime by the offender and to punish the offender using the minimum sanctions that the court determines will accomplish those purposes. While sentencing courts have discretion to determine how best to comply with these purposes, R.C. 2929.12 provides a list of factors that courts must consider in felony sentencing. Courts must carefully consider these purposes and factors, but “it is not necessary for the trial court to articulate its consideration of each individual factor as long as it is evident from the record that the principles of sentencing were considered.” *State v. Gonzalez*, 8th Dist. Cuyahoga No. 102579, 2015-Ohio-4765, ¶ 6, citing *State v. Roberts*, 8th Dist. Cuyahoga No. 89236, 2008-Ohio-1942, ¶ 10.

{¶ 9} A review of the record in this case shows that the trial court considered the relevant factors in R.C. 2929.12 and the purposes of felony sentencing in R.C. 2929.11. At sentencing, the trial court indicated that it had

reviewed the presentence-investigation report, the substance-abuse assessment, and the mitigation report prepared by the court's psychiatric clinic. The trial court also considered the statement of the parties involved.

{¶ 10} The prosecutor addressed the court and explained that in the early morning of January 27, 2018, Reed and her brother, both wearing masks and dark-colored sweatshirts, entered the bar where she previously worked. A third individual also accompanied Reed to the bar.¹ Reed proceeded to walk behind the bar and attacked her former coworker, L.K., stabbing her once in the stomach, resulting in a superficial wound. Reed was wrestled to the ground by patrons of the bar. The prosecutor further explained that the investigation revealed that Reed had been fired from the bar and blamed the victim for her termination.

{¶ 11} The victim, L.K., addressed the court and explained that in December 2017, Reed began bragging about a gun she had acquired. Reed would show it to customers and even threatened people with the gun, but everyone was afraid to call the police. L.K. explained that Reed was eventually arrested and believed it was L.K., who had called the police. L.K. stated she was attacked because Reed could not accept responsibility for her actions, believing it is always someone else at fault.

{¶ 12} L.K. believes she is alive because patrons, who would not have ordinarily been in the bar at the time the attack occurred, were there to come to her rescue. L.K. stated that she has lived in fear since the attack and is reluctant to go

¹ The third individual died in the altercation that ensued, but no charges resulted from his death.

out in public, because she is afraid of being attacked by one of Reed's relatives. L.K. stated that she had also lost her job of five years because the bar closed after the incident.

{¶ 13} Defense counsel addressed the court and explained that Reed feels remorse and has taken full responsibility for her actions. Defense counsel stated that Reed suffers from mental health issues, including bipolar disorder. Defense counsel stressed that Reed also had substance-abuse challenges, and was drinking heavily in the hours immediately preceding the attack.

{¶ 14} Reed addressed the court, apologized to L.K., and accepted responsibility for her actions. Reed stated that L.K. did not deserve to be attacked or to live in fear of being attacked in the future. Reed acknowledged her mental health issues and substance-abuse challenges, and promised to take her medications as prescribed.

{¶ 15} Prior to imposing sentence, the trial court stated:

But in terms of sentencing for the conduct, I think my focus is, all three went there with a specific purpose, and it was brought about and a weapon was used and the charges that are applicable to Miss Reed are felonious assault.

Now, the first decision I have to make is whether or not there's been enough information provided to me to defeat the presumption that the state legislature had put into place that for this type of crime, individuals are presumed, meaning, in all probability, will be going to prison.

And I don't think the information provided to me under these circumstances, although I commend [defense counsel] and her office for presenting and doing an excellent job of characterizing Miss Reed's present circumstances and situations, and I think that kind of attention to detail and doing what is necessary for your client is a welcome to the

court system for the work that the defendant or public defender went forward to do what was necessary to present Miss Reed in the best light. And I think you should be commended or that, and your office should be commended.

And I think Miss Reed has done things since this time in her 311 days in the county jail, to take responsibility for her conduct, realize that this is a destructive path she is on, realize that she must stay on her medications, and when she's on her medications, she acts — at least has the ability to act reasonably, but when you mix that with alcohol and whatever else was going on at that particular time, anger, revenge, or whatever, that is a — fortunately, not a deadly mix, but it is certainly a harmful mix not only to yourself, but obviously to others in this situation. So I think you've done a good job, Miss Reed and counsel, but that the conduct is such here that I think is such that it needs to be dealt with by a prison sentence.

So I am going to sentence you to prison. Presumption is not defeated. And the range is from two to four years. The reason I'm not giving you the minimum of two years is because of the planned activity, because I think that — I'm not going to use the term — it was just planned, and when that level of thought goes into this, and enlisting others to join you with a designated result, we're going to harm somebody, that is not a minimum of two years in my view. So I'm going to sentence you to four years in prison.

{¶ 16} In this case, Reed does not dispute that the sentence is within the statutory range. Although the trial court did not specifically state at the sentencing hearing that it considered the purposes and principles of felony sentencing as set forth in R.C. 2929.11 and 2929.12, the trial court's statements above demonstrate that it considered the required statutory factors and fulfilled its obligations under the sentencing statutes. *See State v. Payne*, 114 Ohio St.3d 502, 2007-Ohio-4642, 873 N.E.2d 306, ¶ 18; *State v. Wright*, 8th Dist. Cuyahoga No. 95096, 2011-Ohio-733, ¶ 4.

{¶ 17} In addition, in its journal entry imposing the sentences, the trial court stated that it “considered all required factors of the law” and further stated that a prison term “is consistent with the purpose of R.C. 2929.11.” A sentencing court need not state anything further than it considered all required statutory factors to fully comply with the sentencing statutes. *State v. McGowan*, 8th Dist. Cuyahoga No. 105806, 2018-Ohio-2930, citing *State v. Kamleh*, 8th Dist. Cuyahoga No. 97092, 2012-Ohio-2061, ¶ 61. *See also State v. Duncan*, 8th Dist. Cuyahoga No. 107393, 2019-Ohio-2436. Thus, the trial court fulfilled its statutory obligation pursuant to R.C. 2929.11 and 2929.12.

{¶ 18} In light of the foregoing, we find that the trial court’s sentence is not contrary to law. Accordingly, the sole assignment of error is overruled.

{¶ 19} 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 out of this court directing the common pleas court to carry this judgment into execution.

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

MARY EILEEN KILBANE, ADMINISTRATIVE JUDGE

EILEEN T. GALLAGHER, J., and
MICHELLE J. SHEEHAN, J., CONCUR