

**THE COURT OF APPEALS  
ELEVENTH APPELLATE DISTRICT  
LAKE COUNTY, OHIO**

STATE OF OHIO,	:	<b>OPINION</b>
Plaintiff-Appellee,	:	
- vs -	:	<b>CASE NO. 2009-L-028</b>
ANDREW P. BECAR,	:	
Defendant-Appellant.	:	

Criminal Appeal from the Lake County Court of Common Pleas, Case No. 08 CR 000660.

Judgment: Affirmed.

*Charles E. Coulson*, Lake County Prosecutor, and *Alana A. Rezaee*, Assistant Prosecutor, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Plaintiff-Appellee).

*R. Paul LaPlante*, Lake County Public Defender, and *Vanessa R. Clapp*, Assistant Public Defender, 125 East Erie Street, Painesville, OH 44077 (For Defendant-Appellant).

DIANE V. GRENDALL, J.

{¶1} Defendant-appellant, Andrew P. Becar, appeals the Judgment Entry of the Lake County Court of Common Pleas, in which the trial court sentenced Becar to a prison term of 18 months. For the following reasons, we affirm the decision of the trial court.

{¶2} In 2008, Becar and his co-defendant/paramour, Hanna Gallo, ran an exotic massage parlor out of their shared apartment in Willoughby Hills, Ohio. Officers from the Willoughby Hills Police Department set up an undercover sting operation, after receiving a tip from Gallo's mother, and discovered activities which led to the charge in the instant case.

{¶3} On December 9, 2008, Becar was charged by way of information to one count of Promoting Prostitution, a felony of the fourth degree, in violation of R.C. 2907.22(A)(1). On December 18, 2008, Becar entered a plea of guilty, which the trial court accepted. Becar was later sentenced to serve a stated prison term of 18 months, to be served consecutive to Becar's sentence imposed in Lake County Common Pleas Case No. 06-CR-000244, with credit for time served.

{¶4} Becar timely appeals and raises the following assignment of error: "The trial court erred by sentencing the defendant-appellant to a maximum term of imprisonment."

{¶5} Becar does not assert that his sentence was contrary to law. Rather, he argues that the trial court failed to give "careful and substantial deliberation to the relevant statutory considerations." Becar maintains that the trial court failed to give "appropriate consideration and weight, under R.C. 2929.12(E), to the genuine remorse expressed." He further asserts that there were factors tending to make his offense less serious, but they "were discounted by the trial court."

{¶6} "[A]ppellate courts must apply a two-step approach when reviewing felony sentences. First, they must examine the sentencing court's compliance with all applicable rules and statutes in imposing the sentence to determine whether the sentence is clearly and convincingly contrary to law. If this first prong is satisfied, the

trial court's decision in imposing the term of imprisonment is reviewed under the abuse-of-discretion standard." *State v. Kalish*, 120 Ohio St.3d 23, 2008-Ohio-4912, at ¶26.

{¶7} In *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, the Supreme Court held that "[t]rial courts have full discretion to impose a prison sentence within the statutory range and are no longer required to make findings or give their reasons for imposing maximum, consecutive, or more than the minimum sentences." *Id.* at paragraph seven of the syllabus. In light of *Foster*, this court has held that the trial court has full discretion to sentence within the statutory ranges. *State v. Weaver*, 11th Dist. No. 2006-L-113, 2007-Ohio-1644, at ¶33; *State v. Martin*, 11th Dist. No. 2006-L-191, 2007-Ohio-2579, at ¶19 ("[s]ince [appellant's] sentences fall within the statutory range, we cannot conclude the trial court abused its discretion by imposing a sentence inconsistent with similarly situated offenders"); see, also, *State v. Sanders*, 11th Dist. No. 2006-L-222, 2007-Ohio-3207, at ¶18.

{¶8} "A court that sentences an offender for a felony shall be guided by the overriding purposes of felony sentencing. The overriding purposes of felony sentencing are to protect the public from future crime by the offender and others and to punish the offender." R.C. 2929.11(A). A court imposing a sentence for a felony "has discretion to determine the most effective way to comply with the purposes and principles of sentencing." R.C. 2929.12(A). "In the exercise of this discretion, a court 'shall consider' the non-exclusive list of seriousness and recidivism factors set forth in R.C. 2929.12(B), (C), (D), and (E)." *Sanders*, 2007-Ohio-3207, at ¶15. There is no "mandate" for the sentencing court to engage in any factual finding under these statutes. Rather, "[t]he court is merely to 'consider' the statutory factors." *Foster*, 2006-Ohio-856, at ¶42. Consequently, the trial court is not required to make specific findings on the record to "evinced the requisite consideration of the applicable seriousness and recidivism factors."

*State v. Arnett*, 88 Ohio St.3d 208, 215, 2000-Ohio-302. Nor is a trial court required to make specific findings on the record in order to demonstrate that it engaged in the analysis under R.C. 2929.11 to ensure that the sentence is not demeaning to the seriousness of the offender's conduct. *State v. Green*, 11th Dist. Nos. 2005-A-0069 and 2005-A-0070, 2006-Ohio-6695, at ¶35 (citations omitted).

{¶9} The record before us demonstrates that the court complied with R.C. 2929.12 by considering the record, oral statements, any victim impact statement, pre-sentence report and/or drug and alcohol evaluation submitted by the Lake County Adult Probation Department of the Court of Common Pleas, as well as the principles and purposes of sentencing under R.C. 2929.11. Finally, before rendering a decision, the trial court balanced the seriousness and recidivism factors under R.C. 2929.12.

{¶10} Most importantly, Becar's sentence of 18 months falls within the prescribed range for a felony of the fourth degree, which is anywhere from "six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, or eighteen months." R.C. 2929.14(A)(4). Therefore, the trial court did not abuse its discretion in imposing the maximum sentence.

{¶11} Becar's sole assignment of error is without merit.

{¶12} For the foregoing reasons, the judgment entry of the Lake County Court of Common Pleas sentencing Becar to a prison term of 18 months is affirmed. Costs to be taxed against appellant.

CYNTHIA WESTCOTT RICE, J.,

COLLEEN MARY O'TOOLE, J.,

concur.