

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
SANDUSKY COUNTY

State of Ohio

Court of Appeals No. S-18-037

Appellee

Trial Court No. 18CR565

v.

Wilfred Haralson

DECISION AND JUDGMENT

Appellant

Decided: June 28, 2019

* * * * *

Timothy Braun, Sandusky County Prosecuting Attorney, and
Mark E. Mulligan, Assistant Prosecuting Attorney, for appellee.

Christopher M. Marcinko, for appellant.

* * * * *

PIETRYKOWSKI, J.

{¶ 1} Defendant-appellant, Wilfred Haralson, appeals the August 31, 2018 judgment of the Sandusky County Court of Common Pleas which, following appellant's guilty plea to three fifth-degree felonies, sentenced him to a total of 30 months of imprisonment. For the reasons that follow, we affirm.

{¶ 2} On May 22, 2018, appellant was indicted on six, fifth-degree felony counts: three counts of trafficking in heroin, two counts of trafficking in cocaine, and one count

of aggravated possession of drugs. The charges followed appellant's arrest after multiple drug transactions involving a confidential informant.

{¶ 3} On July 10, 2018, appellant entered a guilty plea to two counts of trafficking in cocaine and one count of trafficking in heroin, fifth-degree felonies. Appellant's sentencing hearing was held on August 29, 2018. The trial court sentenced appellant to ten months in prison on each of the three counts to be served consecutively. The court also imposed a fine of \$1,500 on each count. The court's sentencing judgment entry was journalized on August 31, 2018, and this appeal followed.

{¶ 4} Appellant now raises the following assignment of error:

Assignment of Error One: Whether the trial court's sentence given to the defendant was an abuse of the Court's sentencing discretion and disproportionate to the seriousness of the Defendant's conduct.

{¶ 5} We note that this court reviews felony sentences under the two-prong approach set forth in R.C. 2953.08(G)(2). R.C. 2953.08(G)(2) provides that an appellate court may increase, reduce, modify, or vacate and remand a disputed sentence if it clearly and convincingly finds either of the following:

(a) That the record does not support the sentencing court's findings under division (B) or (D) of section 2929.13, division (B)(2)(e) or (C)(4) of section 2929.14, or division (I) of section 2929.20 of the Revised Code, whichever, if any, is relevant;

(b) That the sentence is otherwise contrary to law.

{¶ 6} On the date of sentencing, the prison terms for a fifth-degree felony ranged from 6 to 12 months. R.C. 2929.14(A)(5). R.C. 2929.13(B)(1)(b) provides, in relevant part:

(b) The court has discretion to impose a prison term upon an offender who is convicted of or pleads guilty to a felony of the fourth or fifth degree that is not an offense of violence or that is a qualifying assault offense if any of the following apply:

* * *

(x) The offender at the time of the offense was serving, or the offender previously had served, a prison term.

{¶ 7} In addition, a court may sentence a defendant to a consecutive sentence when it finds that

the consecutive service is necessary to protect the public from future crime or to punish the offender and that consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public, and if the court also finds any of the following:

(a) The offender committed one or more of the multiple offenses while the offender was awaiting trial or sentencing, was under a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, or was under post-release 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 multiple offenses so committed 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.

(c) The offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender. R.C. 2929.14(C)(4).

{¶ 8} In the present case, at sentencing the trial court confirmed that appellant had previously been convicted of and imprisoned for drug trafficking. Further, it was noted by the state that the heroin at issue contained fentanyl. The court then sentenced appellant to consecutive ten-month prison terms stating:

The Court finds that consecutive sentences are necessary to protect the public from future crime and to punish the offender. I find that the consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public.

Court further finds that at least two of the offenses were committed as part of one or more courses of conduct and the harm caused by two or more of the multiple offenses so committed was so great and 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.

{¶ 9} The August 31, 2018 sentencing judgment entry reflected the above-quoted findings. The court further indicated that at sentencing it considered the record, oral statements, the prior criminal history of the defendant, the principles and purposes of sentencing under R.C. 2929.11 and the seriousness and recidivism factors under R.C. 2929.12.

{¶ 10} Based on the foregoing, we conclude that the sentence was not contrary to law and was supported by the record. Further, the record evidences that the court considered the relevant statutory sentencing factors. Appellant's assignment of error is not well-taken.

{¶ 11} On consideration whereof, we find that appellant was not prejudiced or prevented from having a fair proceeding and the judgment of the Sandusky County Court of Common Pleas is affirmed. Pursuant to App.R. 24, appellant is ordered to pay the costs of this appeal.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

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