

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

STATE OF OHIO,	:	APPEAL NO. C-180300
	:	TRIAL NO. B-1801452
Plaintiff-Appellee,	:	
vs.	:	
	:	<i>JUDGMENT ENTRY.</i>
JUSTIN JONES,	:	
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.

Jones was convicted, after a plea of guilty, to violating Ohio’s notice of residence address change for certain sex offenders, a third-degree felony, in violation of R.C. 2950.05. Jones was subject to the residence-change-notification law because of a 2013 gross-sexual-imposition conviction involving his four-year-old niece. He was on post-release control for that offense when he failed to register his address as required by law. The trial court accepted his plea and imposed a sentence of 12 months in prison. On appeal, Jones challenges only his sentence and claims it is contrary to law, in one assignment of error.

The state argues the case may be moot, speculating that Jones was due to be released from incarceration in February 2019. But the state did not supplement the record with information about Jones’s scheduled release. Therefore, we address the merits of Jones’s appeal.

As provided under R.C. 2953.08(G)(2), this court will only modify or vacate defendant's sentence if it clearly and convincingly finds that (1) the record does not support any mandatory sentencing findings or (2) that the sentence is otherwise contrary to law. *State v. Marcum*, 146 Ohio St.3d 516, 2016-Ohio-1002, 59 N.E.3d 1231, ¶ 22-23; *State v. White*, 2013-Ohio-4225, 997 N.E.2d 629, ¶ 5 and 11 (1st Dist.). Here, there were no mandatory sentencing findings required, and the 12-month sentence falls within the lawful range for a third-degree felony offense.

Jones argues his sentence is contrary to law because, at the sentencing hearing, the trial court failed to provide certain notifications. First, he argues the court failed to provide a statutory notification that he cannot ingest or be injected with a drug of abuse and that he must submit to random drug testing in prison. We assume Jones is referring to R.C. 2929.19(B)(2)(f), which was removed from the Revised Code via Senate Bill 66, effective October 28, 2018. *See State v. Schillinger*, 11th Dist. Portage No. 2018-P-0014, 2018-Ohio-3966, ¶ 32-35, *appeal not allowed*, 154 Ohio St.3d 1501, 2019-Ohio-345, 116 N.E.3d 155. The prior version of the statute was in effect at Jones's sentencing hearing, held on May 9, 2018. Nonetheless, this court has held that the trial court's failure to comply with R.C. 2929.19(B)(2)(f) does not prejudice a defendant because the statutory section confers no substantial right on a defendant. *See State v. Ruff*, 1st Dist. Hamilton Nos. C-160385 and C-160386, 2017-Ohio-1430, ¶ 26. Thus, the trial court's failure to provide these notifications is harmless error.

Next, Jones argues the court failed to inform him that he may or may not be eligible for earned days of credit that are referenced in R.C. 2967.193. This argument is without merit. Former R.C. 2929.14(D)(3) required that the trial court inform an offender of the offender's eligibility to earn days of credit as set forth in R.C. 2967.193. But that language was removed from the statute in 2012, *see State v. Graham*, 1st Dist. Hamilton

No. C-130375, 2014-Ohio-1024, ¶ 9, and was not in effect at the time Jones was sentenced. Thus, Jones has failed to demonstrate that the trial court erred by failing to inform him of his potential eligibility to earn prison-time credit.

Jones additionally argues that the court's imposition of prison time is contrary to law because the state did not request prison time. But the court expressly stated that it had applied the relevant statutes when selecting the sanction of prison, and the length of the prison term, and that it had considered the relevant evidence, including a Presentence Investigation. We cannot say from this record that the trial court failed to follow the applicable sentencing laws such that the sentence was otherwise contrary to law, even though the state did not request prison time.

Therefore, we overrule the assignment of error and affirm the trial court's judgment.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

ZAYAS, P.J., CROUSE and WINKLER, JJ.

To the clerk:

Enter upon the journal of the court on August 2, 2019
per order of the court _____.
Presiding Judge