

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

STATE OF OHIO,	:	APPEAL NO. C-180461
	:	TRIAL NO. B-1702463
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
KALUPE WILSON,	:	
	:	
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.

Defendant-appellant Kalupe Wilson appeals the trial court's judgment finding that Wilson violated his community-control sanctions and imposing a sentence of 30 months' imprisonment. Raising one assignment of error, Wilson presents two arguments for our review.

Wilson first argues that the trial court violated his due process and Crim.R. 11 rights by failing to advise him of the nature of the rule violations prior to accepting his no-contest plea. Minimum requirements of due process apply to community-control-revocation hearings. *State v. King*, 1st Dist. Hamilton No. C-010330, 2002 WL 125616, *2 (Feb. 1, 2002). Due process does not mandate a Crim.R. 11 colloquy for no-contest pleas to community-control violations. *State v. McAfee*, 1st Dist. Hamilton No. C-130567, 2014-Ohio-1639, ¶ 10; *State v. Phelps*, 1st Dist. Hamilton Nos. C-150204 and C-150205, 2016-Ohio-4673, ¶ 12.

On July 23, 2018, Wilson received written notice of four rule violations by way of formal complaint. The complaint apprised him of the specific grounds upon which he allegedly violated the conditions of his community control: possessing marijuana; failing to provide eight drug screens; testing positive for marijuana; failing to make monthly payments toward monies owed; and being non-compliant with electronic-monitoring-unit conditions. By entering a no-contest plea and waiving a probable-cause determination, Wilson effectively admitted to the violations in the complaint and chose to forego further inquiry into the allegations. Therefore, Wilson's first argument is without merit.

Wilson also argues that his 30-month sentence is contrary to law because the trial court failed to adequately consider the sentencing factors under R.C. 2929.11 and 2929.12. A sentencing court is not required to make specific findings regarding the R.C. 2929.11 felony-sentencing principles and purposes, or the seriousness-and-recidivism factors of R.C. 2929.12. *State v. Ridder*, 1st Dist. Hamilton No. C-150460, 2016-Ohio-5195, ¶ 29. Where the record is silent regarding the court's consideration of R.C. 2929.11 and 2929.12, we presume the court properly considered those objectives and factors. *Id.* The defendant bears the burden to affirmatively show that the court failed to do so. *State v. Cephas*, 1st Dist. Hamilton No. C-180105, 2019-Ohio-52, ¶ 42.

At the community-control-revocation hearing, the trial court heard evidence that Wilson violated four separate rules of community control and attempted to purchase firearms. The court considered this evidence in light of Wilson's criminal record, his likelihood of recidivism, and the need to protect the public. Specifically, the court stated:

You're talking buying guns, you're talking selling guns.

* * *

You've been to prison before, twice for guns. You put yourself in that environment, you're keeping yourself in that environment; you're not improving yourself. I'm tired of it; it's for your safety, for society's safety.

The court continued:

You served two years for Judge Ruehlman when you shot somebody as a 19-year-old, served one year for Judge Luebbers for carrying a concealed weapon, and weapons under disability was dismissed. You'll get 30 months on this.

Contrary to Wilson's assertion, the trial court also found that Wilson was not amenable to community control. Specifically, the court stated:

Mr. Wilson, you're 24 years old, and you've been an adult just over six years, and three of those years you've spent in prison.

* * *

Something is not taking. Putting you on community control doesn't seem to be taking either.

Because "[o]ur review is limited to whether the trial court properly considered the factors in coming to its sentencing decisions, not whether the trial court correctly weighed each factor," Wilson's second argument is without merit. *State v. Jackson*, 1st Dist. Hamilton Nos. C-180245 and C-180246, 2019-Ohio-3299, ¶ 12.

Having found both arguments to be without merit, we overrule Wilson's sole assignment of error and affirm the judgment of the trial court.

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.

OHIO FIRST DISTRICT COURT OF APPEALS

MOCK, P.J., MYERS and CROUSE, JJ.

To the clerk:

Enter upon the journal of the court on October 18, 2019

per order of the court _____.

Presiding Judge

