

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

STATE OF OHIO,	:	APPEAL NO. C-180673
	:	TRIAL NO. B-1805229
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
JOSEPH MARSHALL,	:	
	:	
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.

In his sole assignment of error, defendant-appellant Joseph Marshall appeals his sentence arguing that the trial court erred in excessively sentencing him because the record did not support the sentence.

This court reviews sentences under the standard of review set forth in R.C. 2953.08(G)(2). Under that standard, 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 trial court need not make specific findings, and we can presume the court considered the statutory factors absent an affirmative demonstration in the record showing otherwise. *See State v. Robinson*, 1st Dist. Hamilton No. C-150602, 2016-Ohio-5114, ¶ 6.

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Marshall pleaded guilty to felonious assault, a second-degree felony, for slitting a man's throat with a knife. At the time, he was on community control for three convictions for possessing heroin. The trial court imposed a sentence of five years' incarceration. Before imposing sentence, the trial court discussed the shocking nature of the crime and the impact on the victim to have a complete stranger slice his neck while he was purchasing a soft drink in a convenience store. The court acknowledged the fact that Marshall took responsibility very early in the case and explained to him that that carried weight with the court. The court noted that he was currently on community control for three separate cases involving drugs.

Based on this record, Marshall has failed to affirmatively demonstrate that the record does not support the sentence. *See id.* Accordingly, we overrule his sole assignment of error and affirm the judgment of the trial court.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

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

To the clerk:

Enter upon the journal of the court on December 13, 2019
per order of the court _____.

Presiding Judge