

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

STATE OF OHIO,	:	APPEAL NO. C-190509
	:	TRIAL NO. B-1903539
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
KEITH LOCKHART,	:	
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 July 2019, defendant-appellant Keith Lockhart pleaded guilty to two counts of breaking and entering under R.C. 2911.13. In turn, the trial court imposed a 12-month sentence on each charge, running the sentences consecutively for a total of 24 months. Mr. Lockhart now appeals, raising a single assignment of error, contending the trial court failed to render the necessary findings under R.C. 2929.14(C) and failed to consider the sentencing purposes and factors set forth in R.C. 2929.11 and 2929.12.

As the Ohio Supreme Court recently clarified in *State v. Gwynne*, 158 Ohio St.3d 279, 2019-Ohio-4761, 141 N.E.3d 169, R.C. 2929.11 and 2929.12 only apply when reviewing individual sentences, while R.C. 2953.08(G)(2) remains the “exclusive means of appellate review of consecutive sentences.” *Id.* at ¶ 16-17; *State v. Chandler*, 1st Dist. Hamilton No. C-190153, 2020-Ohio-164, ¶ 6. Pursuant to R.C. 2953.08(G)(2), we may modify or vacate a defendant’s sentence where we “clearly and convincingly” find that the record does not support the mandatory sentencing findings or that the sentence is

otherwise contrary to law. *See State v. Marcum*, 146 Ohio St.3d 516, 2016-Ohio-1002, 59 N.E.3d 1231, ¶ 1.

A trial court properly imposes consecutive sentences when it renders the findings required by R.C. 2929.14(C)(4) at the sentencing hearing and incorporates those findings into its sentencing entry. *See State v. Smith*, 1st Dist. Hamilton No. C-180151, 2019-Ohio-5264, ¶ 104, citing *State v. Bonnell*, 140 Ohio St.3d 209, 2014-Ohio-3177, 16 N.E.3d 659, ¶ 37. On appeal, Mr. Lockhart acknowledges that the trial court indeed properly cited the statutory language of R.C. 2929.14(C)(4), but asserts the court nevertheless failed to provide further findings in regards to each prong. However, as long as the reviewing court discerns that the trial court engaged in the correct analysis and the record supports the findings, we must affirm the consecutive sentences. *See Bonnell* at ¶ 29. And we may glean as much here, with the trial court explaining at the sentencing hearing that the 24-month consecutive sentences were necessary to protect the public and punish the offender, were proportionate to the seriousness of his conduct, and were needed to protect the public in light of Mr. Lockhart's criminal history. *See* R.C. 2929.14(C)(4). To support these findings, the court emphasized that Mr. Lockhart resembles a "career criminal serial thief," possessing numerous prior theft-related offenses, at least six of those occurring since 2016, and emphasized his previous unsuccessful attempts at community control. In light of this, the record properly supports the trial court's consecutive sentences findings in regard to R.C. 2929.14(C)(4).

Similarly, the trial court properly considered the purposes and principles of sentencing, as well as the sentencing seriousness and recidivism factors prior to imposing Mr. Lockhart's individual sentences. Despite this, Mr. Lockhart insists that the court failed to consider certain criteria under R.C. 2929.11 and 2929.12 when imposing the sentences, particularly his acknowledgment of his substance abuse issues, full-time employment, and willingness to pay restitution. Yet, at the hearing, the court indeed mulled over these facts, ultimately finding that "[t]he occasional attendance at AA meetings hasn't proven sufficient" and his numerous theft-related convictions

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“demonstrates a lack of remorse * * * [and] there’s nothing reducing the likelihood of recidivism.” The record accordingly confirms that the trial court properly considered the appropriate sentencing provisions prior to imposing Mr. Lockhart’s sentences, and therefore his sentences were not clearly and convincingly contrary to law. *See State v. Grimes*, 1st Dist. Hamilton No. C-190599, 2020-Ohio-3795, ¶ 14 (defendant’s sentence was not clearly and convincingly contrary to law where the record established the court below considered the relevant sentencing provisions).

In light of the above, the record properly supports that the trial court made the mandatory findings set forth in R.C. 2929.14(C)(4) prior to imposing the consecutive sentences, as well as considered the provisions of R.C. 2929.11 and 2929.12. We accordingly overrule Mr. Lockhart’s single assignment of error and affirm the trial court’s judgment.

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., BERGERON and WINKLER, JJ.

To the clerk:

Enter upon the journal of the court on July 31, 2020,
per order of the court_____.

Presiding Judge