

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

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| STATE OF OHIO, | : | APPEAL NO. C-170108 |
| Plaintiff-Appellee, | : | TRIAL NO. B-1404902 |
| vs. | : | <i>JUDGMENT ENTRY.</i> |
| KWAME MILLS, | : | |
| 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 Kwame Mills appeals the trial court’s imposition of a three-year prison term following his violation of a prior community-control sanction.

In 2015, Mills pleaded guilty to aggravated possession of and aggravated trafficking in drugs, both felonies of the third-degree. The trial court sentenced Mills to a three-year period of community control, and ordered Mills to maintain employment and to submit to drug testing every other month.

In January 2016, Mills’ probation officer alleged that Mills was in violation of the conditions of community control. Mills had missed scheduled drug-screening tests and appointments with his probation officer, had failed to inform the department of his whereabouts, and had failed to meet his financial obligations to pay costs and fees. After being arrested two months later, Mills waived a probable-cause hearing and entered a plea of guilty to the violations. Despite the recommendation of Mills’ probation officer that

community control be continued, and Mills' explanation of the difficulties he faced in reaching the probation department offices, the trial court terminated community control and imposed a three-year prison term.

In his sole assignment of error, Mills contends only that the trial court erred by imposing a sentence that was "not supported by findings in the record," failing to consider substantial evidence offered in mitigation, and failing to provide a justification for the imposition of "a maximum sentence."

Here, the trial court was not required to make any "findings" to support its imposition of a prison term. *See* R.C. 2953.08(G)(1) and 2953.08(G)(2)(a). Thus, we can vacate or modify the sanction imposed for Mills' community-control violation only if we clearly and convincingly find that the sentence was contrary to law. *See* R.C. 2953.08(G)(2)(b); *see also State v. Bowden*, 1st Dist. Hamilton No. C-140462, 2015-Ohio-3740, ¶ 14.

R.C. 2929.15(B) provides the trial court "a great deal of latitude" in sentencing an offender for community-control violations. *State v. Brooks*, 103 Ohio St.3d 134, 2004-Ohio-4746, 814 N.E.2d 837, ¶ 20. When the trial court decides to impose a prison term for a violation, R.C. 2929.15(B)(3) provides that it "shall be within the range of prison terms available for the offense for which the sanction that was violated was imposed and shall not exceed the prison term specified in the notice provided to the offender at the sentencing hearing * * *."

Mills did not provide a transcript of the original sentencing hearing for our review. But the trial court's original judgment entry provided that if Mills violated community control, the court "would impose" a six-year prison term. Thus the three-year prison term actually imposed for the violation did not exceed the term provided in the notice to Mills,

and was within the statutory range available for a third-degree felony. *See* R.C. 2929.14(A)(3)(b).

Finally, although the trial court did not specifically state that it had considered the factors under R.C. 2929.11 and 2929.12 in fashioning Mills' sentence, we may presume that it did, particularly when, prior to imposing the challenged prison term, the trial court noted the seriousness of the original offenses leading to the imposition of community control and Mills' failure to comply with the conditions of community control. *See State v. Robinson*, 1st Dist. Hamilton No. C-150602, 2016-Ohio-5114, ¶ 6; *see also Brooks* at ¶ 20.

Since the sentence imposed was not contrary to law, the assignment of error is overruled.

Therefore, we 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.

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

To the clerk:

Enter upon the journal of the court on May 16, 2018
per order of the court _____.
Presiding Judge