

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

STATE OF OHIO,	:	APPEAL NO. C-170364
		TRIAL NO. B-9708745
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
RAYSHAWN JOHNSON,	:	
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.*

After a limited remand from this court, the Hamilton County Court of Common Pleas ordered that Johnson's prison sentence of life without parole for the aggravated murder of Shanon Marks be served consecutively to the other felony sentences imposed in the case. Johnson was previously sentenced to an aggregate prison term of 33 years for those other felony offenses, which included the aggravated burglary and aggravated robbery of Marks and the kidnapping and robbery of Nicole Sroufe. Johnson now appeals, raising two assignments of error.

In his first assignment of error, Johnson contends that the trial court's R.C. 2929.14(C)(4) findings to support the consecutive sentence were not supported by the record. In his second assignment of error, he claims that the cumulative sentence of life without parole plus 33 years violated the Eighth Amendment's prohibition on cruel and unusual punishment.

Before a reviewing court can modify or vacate a felony sentence, it must clearly and convincingly find that the sentence is contrary to law or that the record does not support the sentencing court's findings. R.C. 2953.08(G)(2); *State v. White*, 2013-Ohio-4225, 997 N.E.2d 629, ¶ 11 (1st Dist.).

Johnson does not attack any specific finding the trial court made under R.C. 2929.14(C)(4) to support the consecutive life term for the vicious murder of Marks.¹ He argues instead that the imposition of the consecutive term was inappropriate considering his remorse and the length of the life term. But these facts do not impugn any of the trial court's findings, including its finding pursuant R.C. 2929.14(C)(4)(1) that a consecutive sentence was necessary to protect the public from future crime and to punish Johnson.

Likewise, Johnson's claim of cruel and unusual punishment fails. When reviewing a claim of cruel and unusual punishment, the focus is not on the aggregate sentence, but on the proportionality of the individual sentences comprising the aggregate term, even if one sentence is life without parole. See *State v. Hunter*, 131 Ohio St.3d 67, 2011-Ohio-6524, 960 N.E.2d 955, ¶ 154-155. "Where none of the individual sentences imposed on an offender are grossly disproportionate to their respective offenses, an aggregate prison term resulting from consecutive imposition of those sentences does not constitute cruel and unusual punishment." *State v. Hairston*, 118 Ohio St.3d 289, 2008-Ohio-2338, 888 N.E.2d 1073, syllabus. Here, Johnson merely attacks the length of the aggregate sentence, and does not argue that the individual sentences are grossly disproportionate to their respective offenses.

¹ The details of Johnson's "horrific acts" are set forth in *State v. Johnson*, 1st Dist. Hamilton No. C-160242, 2017-Ohio-1148, ¶ 19, and *State v. Johnson*, 88 Ohio St.3d 95, 723 N.E.2d 1054 (2000), as well as the other decisions issued by the state and federal courts that have reviewed this case.

OHIO FIRST DISTRICT COURT OF APPEALS

Under these circumstances, we cannot clearly and convincingly find that the record does not support the court's findings or that the imposition of the consecutive sentence was contrary to law. *See R.C. 2953.08(G)(2); White, 2013-Ohio-4225, 997 N.E.2d 629, at ¶ 11.* Accordingly, we overrule both assignments 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.

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

To the clerk:

Enter upon the journal of the court on May 18, 2018
per order of the court _____.
Presiding Judge