

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

STATE OF OHIO,	:	APPEAL NO. C-180230
	:	TRIAL NO. B-1601133
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
DWAYNE WILLIS,	:	
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 Dwayne Willis appeals the trial court’s judgment sentencing him to 24 months’ imprisonment following his guilty plea to aggravated possession of drugs, a third-degree felony in violation of R.C. 2925.11(A). In a single assignment of error, Willis argues that the trial court erred by imposing more than a minimum prison sentence.

Pursuant to R.C. 2953.08(G)(2)(a), we may modify or vacate a defendant’s sentence only if we clearly and convincingly find that the record does not support the mandatory sentencing findings or that the sentence is contrary to law. *State v. Marcum*, 146 Ohio St.3d 516, 2016-Ohio-1002, 59 N.E.3d 1231, ¶ 22-23; *State v. White*, 2013-Ohio-4225, 997 N.E.2d 629, ¶ 5 (1st Dist.). Here, the trial court was not

required to make any mandatory findings prior to imposing sentence, and the sentence imposed fell within the available sentencing range for a third-degree felony.

Willis further argues that the trial court failed to consider the purposes and principles of sentencing pursuant to R.C. 2929.11 and the sentencing factors in R.C. 2929.12. But we have consistently held that R.C. 2929.11 and 2929.12 are not fact-finding statutes, and that, in the absence of an affirmative demonstration by the defendant to the contrary, we may presume that the trial court considered them. *State v. Patterson*, 1st Dist. Hamilton No. C-170329, 2018-Ohio-3348, ¶ 60. Here, Willis can make no such demonstration, as the trial court specifically stated on the record that it had been guided by the overriding principles and purposes of sentencing when it formulated its sentence. The court further stated that it had considered all relevant seriousness and recidivism factors and listed the factors that it found applicable.

Following our review of the record, we find that Willis's sentence was not contrary to law and that the trial court did not err in imposing more than a minimum sentence. Willis's assignment of error is overruled, and the judgment of the trial court is affirmed.

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 June 21, 2019
per order of the court _____.
Presiding Judge