

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

|                      |   |                        |
|----------------------|---|------------------------|
| STATE OF OHIO,       | : | APPEAL NO. C-190490    |
|                      | : | TRIAL NO. B-1804484-A  |
| Plaintiff-Appellee,  | : |                        |
|                      | : | <i>JUDGMENT ENTRY.</i> |
| vs.                  | : |                        |
| RONALD WILLIAMS,     | : |                        |
|                      | : |                        |
| 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.

On June 8, 2018, at approximately 1:11 p.m., defendant-appellant Ronald Williams stopped in the center lane of a highway and caused a multi-car collision. Tragically, Vincent Hobbs was struck by a semitruck and died as a result of the collision. Williams pled guilty to one count of aggravated vehicular homicide in violation of R.C. 2903.06(A)(2)(a) and one count of failure to stop after an accident in violation of R.C. 4549.02(A). The trial court imposed the maximum sentence on each count and ordered the sentences to be served consecutively, for an aggregate sentence of 11 years in prison. The court also imposed a lifetime driver's license suspension.

On appeal, Williams argues that his guilty pleas were unconstitutional, his trial counsel was ineffective, and his 11-year sentence was not supported by the record.

In his first assignment of error, Williams argues that the trial court erroneously accepted guilty pleas that were not made knowingly, voluntarily, or intelligently. Williams contends that his pleas were not knowing, intelligent, and voluntary because his attorney misrepresented the state's position regarding sentencing. Counsel allegedly told Williams that the state was "talking about 18 months to 2 years" and that, at worst, Williams should anticipate a three-year sentence. However, as conceded by Williams, this evidence is not in the record before us.

It is "a bedrock principle of appellate practice in Ohio" that an appeals court is limited to the record of proceedings before the trial court. *Morgan v. Eads*, 104 Ohio St.3d 142, 2004-Ohio-6110, 818 N.E.2d 1157, ¶ 13. "A reviewing court cannot add matter to the record before it, which was not a part of the trial court's proceedings, and then decide the appeal on the basis of the new matter." *State v. Ishmail*, 54 Ohio St.2d 402, 377 N.E.2d 500 (1978), paragraph one of the syllabus.

Because Williams relies entirely on information outside the record, he cannot demonstrate error on direct appeal. The record shows that the trial court complied with Crim.R. 11 in accepting Williams's guilty pleas, and Williams does not contend otherwise. Consequently, Williams's first assignment of error is overruled.

In his second assignment of error, Williams contends that he was denied the effective assistance of counsel. Williams argues that his attorney rendered ineffective assistance of counsel by (1) erroneously advising Williams that the court would not impose an 11-year sentence, (2) failing to correct the court's belief that Williams "never had a license," and (3) failing to present mitigating evidence regarding Williams's sobriety.

To prove ineffective assistance of counsel, the defendant must show “that counsel’s performance was deficient.” *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). The defendant must also show a reasonable probability that, but for counsel’s deficient performance, he would not have pleaded guilty. *State v. Xie*, 62 Ohio St.3d 521, 524, 584 N.E.2d 715 (1992); *Hill v. Lockhart*, 474 U.S. 52, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985).

In support of his first two arguments, Williams again relies entirely on evidence outside the record. Consequently, he cannot demonstrate that counsel’s performance was deficient or that, but for counsel’s errors, the results of the proceeding would have been different.

With respect to his third argument, Williams has failed to show prejudice. Prior to sentencing, the trial court referred Williams for a presentence-investigation report (“PSI”). According to the PSI, Williams reported that he “hasn’t had anything [alcoholic] to drink in three years.” Thus, the mitigating factors argued by Williams in his brief were already before the court. Consequently, Williams has not shown a reasonable probability that the outcome of his sentencing would have been different.

Because Williams has failed to meet his burden to show ineffective assistance of counsel, his second assignment of error is overruled.

In his third assignment of error, Williams contends that the trial court failed to follow R.C. 2929.11 and 2929.12 in fashioning an appropriate sentence. Williams argues that an 11-year sentence is not consistent with the purposes and principles of felony sentencing, and is not supported by the record.

An appellate court may modify or vacate a sentence if it finds by clear and convincing evidence:

(a) That the record does not support the sentencing court's findings under [section 2929.13(B), section 2929.13(D), 2929.14(E)(4), or section 2929.20(H) of the Revised Code], whichever, if any, is relevant; [or]

(b) That the sentence is otherwise contrary to law.

R.C. 2953.08(G)(2).

The Ohio Supreme Court recently held that R.C. 2953.08(G)(2) “does not provide a basis for an appellate court to modify or vacate a sentence based on its view that the sentence is not supported by the record under R.C. 2929.11 and 2929.12.” *State v. Jones*, Slip Opinion No. 2020-Ohio-6729, ¶ 39. “Nothing in R.C. 2953.08(G)(2) permits an appellate court to independently weigh the evidence in the record and substitute its judgment for that of the trial court concerning the sentence that best reflects compliance with R.C. 2929.11 and 2929.12.” *Id.* at ¶ 42. Thus, we are barred from weighing the evidence and finding that the record does not support the trial court's findings under R.C. 2929.11 and 2929.12.

Williams also challenges the trial court's imposition of consecutive sentences. In order to impose consecutive terms of imprisonment, a trial court must make the requisite findings under R.C. 2929.14 as part of the sentencing hearing and incorporate those findings in the sentencing entry. R.C. 2929.14; *State v. Bonnell*, 140 Ohio St.3d 209, 2014-Ohio-3177, 16 N.E.3d 659, ¶ 37. The record must show that the court engaged in the requisite analysis and that the evidence supports the findings. *State v. Walker*, 1st Dist. Hamilton No. C-190193, 2020-Ohio-1581, ¶ 68; *State v. Cephas*, 1st Dist. Hamilton No. C-180105, 2019-Ohio-52, ¶ 43.

A review of the record shows that the trial court engaged in the requisite analysis, made the findings required by R.C. 2929.14, and incorporated those

findings into its sentencing entry. The trial court considered the PSI, the victim-impact statements, the arresting officer's statement, and the facts of the case. The PSI detailed Williams's history of traffic offenses, including an OVI, a prior failure to stop after an accident, and two failures to comply with an officer. In all of these instances, Williams did not have a valid driver's license. The PSI further detailed that Williams had a medium-to-high risk of reoffending. In addition, the victim suffered serious physical harm—Hobbs was entrapped in his vehicle and burned to death. Therefore, the record contains sufficient evidence to support the trial court's consecutive-sentences findings.

Because the trial court made the necessary findings to support the imposition of consecutive sentences, Williams's third assignment of error is overruled.

We accordingly affirm the judgment of the trial court.

Further, 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.

**BERGERON, P.J., CROUSE and WINKLER, JJ.**

To the clerk:

Enter upon the journal of the court on January 27, 2021,  
per order of the court \_\_\_\_\_.

Administrative Judge