

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

STATE OF OHIO,	:	APPEAL NO. C-150210
Plaintiff-Appellee,	:	TRIAL NO. B-1404116
vs.	:	<i>JUDGMENT ENTRY.</i>
ALAN MILLER,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

This is a criminal appeal from a conviction for domestic violence. Alan Miller argues that his sentence was contrary to law. We affirm the judgment of the trial court.

Mr. Miller was indicted for two counts of domestic violence for hitting his son with a metal pipe. He pled guilty to one count of domestic violence, and the other count was dismissed. In the course of the proceedings, it was revealed that Miller suffered from a traumatic brain injury that resulted in him having problems controlling violent impulses. The court rescheduled sentencing multiple times to find an appropriate placement for Miller in light of his brain injury. Eventually, the court imposed a sentence of 12 months.

In his sole assignment of error, Mr. Miller argues that the court erred when it imposed the sentence without properly considering the applicable sentencing provisions. *See* R.C. 2929.11 and 2929.12. We may modify or vacate Miller's sentence only if "we 'clearly and convincingly find' that either (1) the record does not support the mandatory sentencing findings, or (2) that the sentence is 'otherwise

contrary to law.’ ” *State v. White*, 1st Dist. Hamilton No. C-130114, 2013-Ohio-4225, ¶ 11. Because no findings were required, our review is limited to whether Miller’s sentence is clearly and convincingly contrary to law.

Miller’s sentence was within the range for a third-degree felony. R.C. 2929.14(A)(3)(b). And absent a demonstration to the contrary, we may presume that the court considered the purposes and principles of sentencing. *See State v. Love*, 194 Ohio App.3d 16, 2011-Ohio-2224, 954 N.E.2d 202, ¶ 14 (1st Dist.). Here, it is clear from the record that the court thoughtfully considered the relevant factors when determining how to sentence Miller. The court reviewed treatment options for Miller before concluding that they were not appropriate for his situation. Mr. Miller complains that the court’s findings, while not required by statute, were not supported by the record. According to the assistant prosecuting attorney’s recitation of the facts during the plea hearing, Mr. Miller struck his son with a metal rod, but “that victim thankfully was not injured.” The trial court, when imposing the sentence, noted that the victim was harmed. But the court’s finding can be harmonized with the assistant prosecuting attorney’s statement. The victim could have been harmed when struck by the rod without manifesting a physical injury. Based on the record before us, we conclude that the sentence was not clearly and convincingly contrary to law. The assignment of error is overruled.

Therefore, we affirm the trial court’s judgment.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

DEWINE, P.J., MOCK and STAUTBERG, JJ.

To the clerk:

Enter upon the journal of the court on November 18, 2015
per order of the court _____.

Presiding Judge