

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

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| STATE OF OHIO, | : | APPEAL NO. C-220100 |
| | : | TRIAL NO. B-2101563 |
| Plaintiff-Appellee, | : | |
| vs. | : | <i>JUDGMENT ENTRY.</i> |
| TIERRE JACKSON, | : | |
| Defendant-Appellant. | : | |

The court sua sponte removes this case from the regular calendar and places it on the court's accelerated calendar, 1st Dist. Loc.R. 11.1.1(A), 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 March 23, 2021, police responded to a call that an armed male was threatening the patrons at a local bar. When police arrived at the scene, defendant-appellant Terre Jackson ran away from the officers, and they witnessed a firearm in his waistband. He appeared to be reaching for the firearm when an officer hit Mr. Jackson with his cruiser to knock him down. Afterwards, Mr. Jackson got back up, ran, and jumped over a fence, and an officer was injured trying to catch him.

The state indicted Mr. Jackson on four counts: carrying a concealed weapon, in violation of R.C. 2923.12; having weapons while under disability, in violation of R.C. 2923.13; resisting arrest, in violation of R.C. 2921.33; and obstructing official business, in violation of R.C. 2921.31. Mr. Jackson pleaded guilty to counts two and three for having weapons under disability (a felony of the third degree) and resisting arrest (a

misdemeanor of the second degree). The court ordered a presentence investigation and a Court Clinic evaluation.

At sentencing, the court imposed 90 days for Mr. Jackson's resisting arrest offense, to be served concurrently with 18 months for his weapons under disability offense, in the Ohio Department of Rehabilitation and Correction, with credit for time served. He now appeals.

Mr. Jackson does not claim that his sentences are contrary to law—the sentences fall within the permissible range. In his sole assignment of error, Mr. Jackson argues only that the record does not support the 18-month sentence imposed by the court for his felony offense. According to Mr. Jackson, a sentence of community control would have more properly served the principles and purposes of sentencing.

In imposing a felony sentence, the trial court must consider the overriding principles and purposes of sentencing as listed in R.C. 2929.11—to protect the public from future crime and to punish the offender, but also to promote the effective rehabilitation of the offender, using the minimum sanctions needed to accomplish these purposes. In reviewing a trial court's felony sentencing, the standard of review is not abuse of discretion; rather, pursuant to R.C. 2953.08(G)(2), an Ohio appellate court may “increase, reduce, or otherwise modify a sentence * * * or may vacate the sentence and remand the matter to the sentencing court for resentencing” only if it determines by clear and convincing evidence “(a) [t]hat the record does not support the sentencing court's findings[,]” or “(b) [t]hat the sentence is otherwise contrary to law.” *Accord State v. Jackson*, 1st Dist. Hamilton No. C-180162, 2019-Ohio-1688, ¶ 5.

A review of the record shows that the trial court properly applied R.C. 2929.11 in sentencing Mr. Jackson. After hearing mitigation from both parties, the trial court

addressed the relevant sentencing factors. The court acknowledged the risk of harm Mr. Jackson created while perpetrating the offense, both for himself and the officers. The court also considered Mr. Jackson's risk of recidivism, noting that he had a lengthy criminal record. This includes, in the five years leading up to Mr. Jackson's present conviction, a conviction for obstruction of official business in 2021, aggravated menacing in 2020, domestic violence assault in 2018, and driving under suspension in 2016. The trial court considered Mr. Jackson's entire criminal history, reading out 16 prior offenses during the sentencing hearing. Having reviewed Mr. Jackson's record, the trial court stated that he was "not a good candidate for a term of community control" because he was a "risk to [him]self and others" and he continued to "defy authority."

By way of mitigation, Mr. Jackson points to the facts that he worked two jobs and was trying to start a business, his fiancée spoke to the court to request that he not be sentenced to prison, and, according to him, he had not touched a weapon for 22 years. However, the trial court weighed the relevant factors in imposing Mr. Jackson's sentence and the record at hand supports the sentence. Having found that the record did support the felony sentence imposed by the trial court, we accordingly overrule Mr. Jackson's sole assignment of error and affirm the trial court's judgment.

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.

MYERS, P.J., ZAYAS and BERGERON, JJ.

To the clerk:

Enter upon the journal of the court on November 18, 2022,
per order of the court_____.

Administrative Judge