

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

STATE OF OHIO,	:	APPEAL NO. C-200378
	:	TRIAL NO. B-2002026
Plaintiff-Appellee,	:	
	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
	:	
LILLIE BLACK,	:	
	:	
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 this court. See Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Defendant-appellant Lillie Black pled guilty to having a weapon while under a disability and was sentenced to 18 months in prison. She has appealed, arguing in one assignment of error that the trial court’s sentencing findings are not supported by the record. We overrule the assignment of error and affirm the trial court’s judgment.

We review felony sentences pursuant to R.C. 2953.08(G)(2):

The appellate court may [increase, reduce, otherwise modify, or vacate a sentence] if it clearly and convincingly finds either of the following:

(a) That the record does not support the sentencing court’s findings under division (B) or (D) of section 2929.13, division (B)(2)(e) or (C)(4)

of section 2929.14, or division (I) of section 2929.20 of the Revised Code, whichever, if any, is relevant;

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

“R.C. 2953.08(G)(2)(a) clearly does not provide a basis for an appellate court to modify or vacate a sentence if it concludes that the record does not support the sentence under R.C. 2929.11 and 2929.12 because * * * R.C. 2929.11 and 2929.12 are not among the statutes listed in the provision.” *State v. Anderson*, 1st Dist. Hamilton No. C-190588, 2021-Ohio-293, ¶ 9, quoting *State v. Jones*, Slip Opinion No. 2020-Ohio-6729, ¶ 31. “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.” *Anderson* at ¶ 9, quoting *Jones* at ¶ 42.

Black argues that incarceration was unnecessary due to the mitigating evidence presented at the sentencing hearing under R.C. 2929.12(C). Even if we agreed with her, we are without authority to substitute our judgment for that of the trial court “concerning the sentence that best reflects compliance with R.C. 2929.11 and 2929.12.” *See Anderson* at ¶ 11.

The sole assignment of error is overruled and the judgment of the trial court is affirmed.

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.

ZAYAS, P.J., CROUSE and HENDON, JJ.

SILVIA SIEVE HENDON, retired, from the First Appellate District, sitting by assignment.

OHIO FIRST DISTRICT COURT OF APPEALS

To the clerk:

Enter upon the journal of the court on August 18, 2021,
per order of the court _____.
Administrative Judge