

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

STATE OF OHIO,	:	APPEAL NO. C-220589
		TRIAL NO. B-2102782
Plaintiff-Appellee,	:	
		<i>JUDGMENT ENTRY.</i>
vs.	:	
MYRAN DEE ANDREWS,	:	
Defendant-Appellant.	:	

This 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(C), 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.

Defendant-appellant Myran Dee Andrews pled guilty to a fourth-degree felony count of operating a motor vehicle under the influence of alcohol, a drug of abuse, or a combination of them (“OVI”). Andrews was sentenced to an aggregate sentence of 24 months, but the court did not indicate which portion of the aggregate sentence was mandatory and which was not mandatory under R.C. 4511.19(G)(1)(d)(i) and 2929.13(G) nor whether the aggregate sentence was reduced by the mandatory term as required by R.C. 2929.14(B)(4).

Andrews raised two assignments of error regarding his sentence. In his first assignment of error, Andrews argues that the trial court erred as a matter of law when it did not articulate which portion of his sentence was mandatory, contrary to the sentencing requirements under R.C. 4511.19(A)(1)(a). Because the mandatory and non-mandatory sentences were not distinguished from each other in accordance with the

relevant statutes, we reverse and remand the cause for resentencing in so far as the sentence does not articulate the mandatory and non-mandatory components. *See* R.C. 2953.08(G)(2), 4511.19, 2929.13(G) and 2929.14(B)(4). Andrews's first assignment is sustained.

Andrews's second assignment of error argues that the trial court failed to consider the seriousness and recidivism factors under R.C. 2929.12 and the principles and purposes of felony sentencing under R.C. 2929.11. We assume the trial court properly considered R.C. 2929.11 and 2929.12 unless the defendant affirmatively proves otherwise; the trial court is not required to make findings under these statutes. *See State v. Alexander*, 1st Dist. Hamilton Nos. C-110828 and C-110829, 2012-Ohio-3349, ¶ 24; *State v. Mimes*, 1st Dist. Hamilton No. C-200122, 2021-Ohio-2494, ¶ 9. Because Andrews did not affirmatively demonstrate the trial court failed to consider the seriousness and recidivism factors, we affirm the trial court's decision to impose an aggregate sentence equal to 24 months. *See Alexander* at ¶ 24. Andrews's second assignment of error is overruled. The trial court's sentence is affirmed in part and reversed in part and the cause is remanded.

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.

CROUSE, P.J., WINKLER, J., and KINSLEY, J.

To the clerk:

Enter upon the journal of the court on July 21, 2023
per order of the court _____.
Presiding Judge