

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

STATE OF OHIO,	:	APPEAL NO. C-250086
	:	TRIAL NO. B-2304439
Plaintiff-Appellee,	:	
vs.	:	
	:	<i>JUDGMENT ENTRY</i>
DAMION MILES,	:	
	:	
Defendant-Appellant.	:	

This court sua sponte removes this cause from the regular calendar and places it on the court’s accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

Defendant-appellant Damion Miles pled guilty to aggravated possession of drugs, a third-degree felony in violation of R.C. 2925.11(A), and was sentenced to three years of intensive supervision community control. As part of his community control, Miles was ordered to obtain his GED, participate in drug screenings, stay away from firearms, enter and complete outpatient drug treatment, maintain employment, and live with his mother. The trial court informed Miles that if he violated the terms of his community control, the court would sentence him to 36 months’ imprisonment.

Approximately seven months later, a community-control sanction violation was filed against Miles. The violation alleged that he had incurred multiple new charges, tested positive on his drug screens for methamphetamines, amphetamines, and THC, failed to report a change of residence, failed to report to his probation officer, failed to make payments towards his financial obligations, and failed to attend

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inpatient substance-abuse treatment, which he was referred to after returning positive drug screens. Miles waived a probable-cause hearing, entered a no-contest plea to the community-control violation, and was found guilty. At sentencing, the trial court restored Miles to community control and ordered him to complete inpatient drug treatment at the River City Correctional Center. The trial court again told Miles that if he violated the terms of his community control, it would impose a sentence of 36 months' imprisonment.

Approximately five months after he was restored to community control, a second community-control sanction violation was filed against Miles alleging that he had been unsuccessfully discharged from River City due to multiple rule violations. Miles again waived a probable-cause hearing and entered a plea of no contest to the violation. The trial court found Miles guilty of the violation and sentenced him to 30 months' imprisonment. When imposing sentence, the court stated that the violation was "one of the wors[t] probation violations I've seen in a while. And it's bad in a way that it just seems to be somewhat systemic in violating the terms and rules of River City." The court elaborated, stating, "You went to River City and you were smuggling fake urine, 14 violations and sanctions. River City is the best I got. You think—I don't have any illusions that Talbert House or men's extended would be any more beneficial to you."

Miles now appeals, arguing in a single assignment of error that the record does not support the trial court's findings as to sentencing. He contends that he was amenable to community control with a treatment program and that the record does not support the trial court's finding that incarceration was necessary.

Pursuant to R.C. 2953.08(G)(2), we may only modify or vacate a felony sentence if we clearly and convincingly find that the record does not support the trial

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court's sentencing findings under certain specified divisions or if we find that the sentence is otherwise contrary to law. *See State v. Truesdell*, 2024-Ohio-5376, ¶ 72 (1st Dist.).

When a trial court imposes a sentence for a community-control violation, the court “may impose (a) a longer time under the same sanction, (b) a more restrictive sanction, including but not limited to, a new term in a community-based correctional facility, halfway house, or jail, or (c) a prison term.” *State v. Williams*, 2020-Ohio-5071, ¶ 22 (1st Dist.), quoting *State v. Kernall*, 2019-Ohio-3070, ¶ 9 (1st Dist.); *see* R.C. 2929.15(B)(1). If a trial court elects to impose a prison term, the term must fall within the available sentencing range for the underlying offense and must not exceed the prison term that the trial court told the defendant would be imposed for a community-control violation. *Williams* at ¶ 22; R.C. 2929.15(B)(3).

The 30-month sentence imposed on Miles fell within the available sentencing range for a third-degree felony, *see* R.C. 2929.14(A)(3)(b), and it did not exceed the 36-month sentence that the trial court had informed Miles would be imposed for a community-control violation.

The record also supports the trial court's findings at sentencing that Miles was not amenable to community control and that incarceration was necessary. The trial court not only initially sentenced Miles to community control rather than imposing a period of imprisonment, but also restored Miles to community control after his first violation, which involved numerous rule infractions. Miles then violated his community control for a second time and was discharged from the River City program after he committed multiple violations of the program's rules, including smuggling urine into the facility. On this record, we cannot clearly and convincingly find that the record does not support the trial court's findings that Miles would not succeed in

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another inpatient-treatment program and that he was not amenable to community control. *See Truesdell*, 2024-Ohio-5376, at ¶ 72 (1st Dist.).


Miles's assignment of error is overruled, and the judgment of the trial court is affirmed.

The court further orders that 1) a copy of this Judgment constitutes the mandate, 2) the mandate be sent to the trial court for execution under App.R. 27, and 3) costs shall be taxed under App.R. 24.

CROUSE, P.J., BOCK and MOORE, JJ.

To the clerk:

Enter upon the journal of the court on 8/27/2025 per order of the court.

By:  _____
Administrative Judge