

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

STATE OF OHIO,	:	APPEAL NOS.	C-250568
			C-250569
Plaintiff-Appellee,	:	TRIAL NOS.	B-2404327-A
			B-2405361
vs.	:		
LAVELL LOREN BOYCE,	:		
Defendant-Appellant.	:		<i>JUDGMENT ENTRY</i>

ZAYAS, Judge.

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.

This is a sentencing appeal following guilty pleas in two felony cases. In the case numbered B-2404327-A, defendant-appellant Lavell Loren Boyce pled guilty to one count of trafficking in marihuana in violation of R.C. 2925.03(A)(2), a felony of the fifth degree, and one count of carrying concealed weapons (“CCW”) in violation of R.C. 2923.12(A)(2), reduced to a misdemeanor of the first degree. Thereafter, in the case numbered B-2405361, Boyce pled guilty to one count of trafficking in marihuana in violation of R.C. 2925.03(A)(2), reduced to a felony of the fifth degree. Sentencing was deferred at defense counsel’s request.

The trial court sentenced Boyce in both cases at a hearing held on September 16, 2025. In the case numbered B-2404327-A, the court imposed a prison term of 12 months on the trafficking in marihuana count. No sentence or other penalty was

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announced on the CCW count. In the case numbered B-2405361, the court imposed a prison term of 12 months on the trafficking in marihuana count. The sentences in both cases were ordered to be served concurrently to one another.

The judgment entries of sentence were docketed in both cases that same day. The entries reflected the sentences announced in open court with one exception. In the case numbered B-2404327-A, the entry stated a 180-day jail term on the CCW count. Boyce's sole assignment of error challenges the imposition of a jail term in the judgment entry on the CCW count despite no such term being announced at the sentencing hearing.

To comport with due process, the sentence commemorated in the judgment entry must coincide with what was stated in open court in the defendant's presence. *State v. Bryan*, 2019-Ohio-2980, ¶ 12 (5th Dist.), citing *Kentucky v. Stincer*, 482 U.S. 730, 745 (1987); *State v. Sullivan*, 2015-Ohio-4845, ¶ 6 (1st Dist.). The judgment entry in the case numbered B-2404327-A does not comport with this constitutional protection in that it contains a term of confinement on the CCW count that was not announced in open court in Boyce's presence. The error must be corrected via resentencing rather than a nunc pro tunc entry due to the trial court's failure to announce the term at sentencing. *See State ex rel. Fogle v. Steiner*, 74 Ohio St.3d 158, 164 (1995) (observing, "nunc pro tunc entries are limited in proper use to reflecting what the court actually decided, not what the court might or should have decided or what the court intended to decide").

Boyce's sole assignment of error is sustained. In the appeal numbered C-250568 from the entry in the case numbered B-2404327-A, the sentence for the CCW offense (Count 3) is vacated and the matter is remanded for resentencing on that count only. The judgment in that case is affirmed in all other respects. We dismiss

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the appeal numbered C-250569 from the entry in the case numbered B-2405361 as Boyce did not assign any errors to the trial court's judgment. *See State v. Kulikowski*, 2024-Ohio-5824, ¶ 21-23 (10th Dist.), discussing App.R. 16(A) (appeal dismissed where appellant failed to assign any error related to the trial court's judgment entry).

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 50% to appellant and 50% to appellee.

KINSLEY, P.J., and **BOCK, J.**, concur.

To the clerk:

Enter upon the journal of the court on 4/8/2026 per order of the court.

By:  _____
Administrative Judge