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

STATE OF OHIO,	:	APPEAL NO. C-250503 TRIAL NO. B-2405866
Plaintiff-Appellee,	:	
vs.	:	
DEMARIO REED,	:	
Defendant-Appellant.	:	*JUDGMENT ENTRY*

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.

Demario Reed appeals his sentence following his guilty plea to one count of failure to comply with an order or signal of a police officer, a felony of the fourth degree, in violation of R.C. 2921.331. Reed contends that the trial court sentenced him based on the commission of a third-degree felony rather than a fourth-degree felony. We disagree and affirm the judgment of the trial court.

We review felony sentences under R.C. 2953.08(G). *State v. Thompson*, 2025-Ohio-4825, ¶ 8 (1st Dist.), citing *State v. Marcum*, 2016-Ohio-1002, ¶ 1. An appellate court may vacate or modify a sentence if it clearly and convincingly finds that the record does not support the court's findings or that the sentence is otherwise contrary to law. *Id.*, citing *Marcum* at ¶ 9.

The following facts are adduced from the plea and sentencing hearings. Reed engaged in a high-speed pursuit after an officer attempted to initiate a traffic stop. When Reed attempted to negotiate a turn from the Norwood Lateral onto I-75 north, he lost control of the vehicle and struck another motorist. The vehicle rolled over several times before coming to rest in the center median, and Reed and his brother, a co-defendant, were ejected from the vehicle. Reed pled guilty to a fourth-degree failure to comply, which carried a presumption of community control.

Prior to imposing sentence, the court informed Reed of the overriding principles and purposes of felony sentencing, and that to achieve those goals, the court considered the sentencing factors in R.C. 2929.12 and 2929.13. The court expressed concern with Reed's recidivism due to his serious juvenile record and found that the presumption of community control did not apply pursuant to R.C. 2929.13(B)(1)(b) because Reed caused physical harm to his brother and a third individual. Notably, the presumption of prison does not apply to a third-degree felony, establishing that the court knew it was imposing a sentence for a fourth-degree felony.

In considering the seriousness of Reed's conduct, the court considered the additional seriousness factors in R.C. 2921.331(C)(5), which a court is required to consider when sentencing an offender for a third-degree failure to comply and noted that Reed's conduct created a substantial risk of physical harm to other drivers on the highway, the police, and the other occupants of his vehicle. The court sentenced Reed to a 16-month prison term.

Reed contends that the court's review of the R.C. 2921.331(C)(5) factors demonstrate that he was sentenced to a third-degree felony. However, the factors were relevant to the seriousness of Reed's conduct. *See State v. Holden*, 2026-Ohio-3, ¶ 16 (2d Dist.) (court's consideration of the third-degree failure to comply factors when

sentencing on a fourth-degree felony were relevant to the dangerousness of the conduct).

The court made it clear throughout the sentencing hearing that Reed had pled guilty to a fourth-degree felony. Moreover, the record reflects the court considered the principles and purposes of sentencing, the seriousness and recidivism factors, and imposed a sentence within the statutory range for a fourth-degree felony.

Accordingly, we overrule Reed's sole assignment of error and affirm the judgment of the trial court.

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.

Kinsley, P.J., and **Crouse, J.,** concur.

To the clerk:

Enter upon the journal of the court on 9/11/2026.

Pursuant to App.R. 30, the clerk is directed to send all parties, or their counsel if represented, a copy of the court's judgment and note such action on the docket.

By: Jennifer Kinsley
Administrative Judge