

[Cite as *State v. Szakacs*, 2015-Ohio-1382.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 101787

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**STATE OF OHIO**

PLAINTIFF-APPELLEE

vs.

**ALEXANDER SZAKACS**

DEFENDANT-APPELLANT

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**JUDGMENT:**  
**AFFIRMED**

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Criminal Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CR-13-578089-A

**BEFORE:** Stewart, J., Celebrezze, A.J., and S. Gallagher, J.

**RELEASED AND JOURNALIZED:** April 9, 2015

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MELODY J. STEWART, J.:

{¶1} Defendant-appellant, Alexander Szakacs, pleaded guilty to a single count of menacing by stalking, a fourth-degree felony violation of R.C. 2903.211(A)(1). The court sentenced him to 18 months in prison. On appeal, Szakacs raises two complaints about his sentence: that its length is against the manifest weight of the evidence and that a prison sentence was contrary to law because he should have been sentenced to community control.

{¶2} We can quickly dispose of Szakacs’s first argument. An argument that a sentence is against the manifest weight of the evidence is nothing more than an argument that the court abused its discretion when selecting the length of a prison term. A sentencing judge has “full discretion to impose a prison sentence within the statutory range,” *State v. Foster*, 109 Ohio St.3d 1, 2006-Ohio-856, 845 N.E.2d 470, paragraph seven of the syllabus, and an “appellate court’s standard for review is not whether the sentencing court abused its discretion.” R.C. 2953.08(G)(2). Stated differently, “[t]he decision as [to] how long a sentence should be — assuming it falls within a defined statutory range — is a pure exercise of discretion” that is “unreviewable.” *State v. Akins*, 8th Dist. Cuyahoga No. 99478, 2013-Ohio-5023, ¶ 16, quoting *Foster*. Szakacs concedes that his sentence was within the statutory range for fourth-degree felonies, so his argument is essentially a disagreement over the severity of his conduct and what measures were needed to punish him — in other words, an argument that his sentence was an abuse of the court’s discretion. That argument is unreviewable.

{¶3} There are three circumstances under which R.C. 2953.08(G)(2) permits an appellate court to review sentencing findings: under R.C. 2929.13(B) or (D); R.C. 2929.14(C)(4); and R.C. 2929.20(I). This leads to Szakacs's second argument, that the court erred by sentencing him to prison time for a fourth-degree felony.

{¶4} R.C. 2929.13(B)(2), upon which Szakacs relies for his second assigned error, provides that "in determining whether to impose a prison term as a sanction for a felony of the fourth or fifth degree, the sentencing court shall comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code and with section 2929.12 of the Revised Code." The court's sentencing entry states that it "considered all required factors of the law," specifically noting that "prison was consistent with the purpose of R.C. 2929.11." This constitutes compliance with the obligation to consider the requirements of R.C. 2929.11 and 2929.12. *See State v. Evans*, 8th Dist. Cuyahoga No. 101485, 2015-Ohio-1022, ¶ 35. To the extent Szakacs disagrees with the way the court applied those factors, that questions the application of the sentencing judge's discretion, a question that R.C. 2953.08(G)(2) prohibits us from reviewing.

{¶5} Judgment affirmed.

It is ordered that appellee recover of appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas to carry this judgment into execution. The defendant's conviction having been affirmed, any bail pending appeal is terminated. Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

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MELODY J. STEWART, JUDGE

FRANK D. CELEBREZZE, JR., A.J., and  
SEAN C. GALLAGHER, J., CONCUR