

[Cite as *State v. Wahdan*, 2016-Ohio-7405.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 104261

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

JEHAD I. WAHDAN

DEFENDANT-APPELLANT

**JUDGMENT:
AFFIRMED**

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case No. CR-15-593685-A

BEFORE: Kilbane, J., Jones, A.J., and E.T. Gallagher, J.

RELEASED AND JOURNALIZED: October 20, 2016

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MARY EILEEN KILBANE, J.:

{¶1} Defendant-appellant, Jihad Wahdan (“Wahdan”), appeals his sentence for unlawful sexual conduct with a minor, attempted corrupting another with drugs, and telecommunications harassment. For the reasons set forth below, we affirm.

{¶2} In March 2015, Wahdan was charged in an 11-count indictment involving the sexual abuse of three minors. Counts 1 and 5 charged him with the rape of Jane Doe I (later identified as L.H.) and included a sexually violent predator specification. Counts 2, 4, and 6 charged him with the kidnapping of Jane Doe I, and included a sexual motivation specification and a sexually violent predator specification. Count 3 charged him with attempted rape of Jane Doe I and included a sexually violent predator specification. Counts 7 and 8 charged him with unlawful sexual conduct with Jane Doe II (later identified as S.S.). Count 9 charged him with unlawful sexual conduct with Jane Doe III (later identified as B.D.). Count 10 charged him with corrupting another with drugs. Count 11 charged him with telecommunications harassment.

{¶3} Pursuant to a plea agreement, Wahdan pled guilty to the following, which included amended charges: unlawful sexual conduct with a minor (Counts 1, 5, 7, and 9); attempted corrupting another with drugs (Count 10); and telecommunications harassment (Count 11). The specifications included with Counts 1 and 5 were deleted and the remaining counts were dismissed.

{¶4} On March 7, 2016, the court sentenced Wahdan to one year in prison on

Counts 1, 5, 9, and 10, six months in jail on Count 11, and six months in prison on Count 7. The court ordered Counts 1, 5, and 11 be served concurrently to each other for a total term of one year, and Counts 9 and 10 be served concurrently to each other for a total term of one year. The court further ordered that these counts be served consecutively to each other and Count 7 be served consecutively to these counts for an aggregate imprisonment of two years and six months. The court also classified Wahdan as a Tier II sexual offender.

{¶5} Wahdan now appeals, raising the following single assignment of error for review.

Assignment of Error

The trial court failed to make the necessary findings and give the required reasons when it sentenced [Wahdan] to consecutive sentences.

{¶6} Wahdan challenges his sentence, arguing that the trial court failed to make the required findings in order to impose a consecutive sentence. He maintains that consecutive sentences were not appropriate because he has no prior criminal convictions, he was upset at the hearing because one of the victims attempted to deceive him, and the offenses cannot be considered part of a similar course of conduct. Wahdan further maintains that there is no chance of recidivism because he was in a transitional period in his life — he recently graduated from high school and his social group still included high school friends.

{¶7} When reviewing felony sentences, an appellate court must “review the record, including the findings underlying the sentence or modification given by the

sentencing court.” R.C. 2953.08(G)(2). If an appellate court clearly and convincingly finds either that (1) “the record does not support the sentencing court’s findings under [R.C. 2929.14(C)(4)]” or (2) “the sentence is otherwise contrary to law,” then “the appellate court may increase, reduce, or otherwise modify a sentence * * * or may vacate the sentence and remand the matter to the sentencing court for resentencing.” *Id.*

{¶8} R.C. 2929.14(C)(4) requires the trial court to engage in a three-step analysis when imposing consecutive sentences. First, the trial court must find that “consecutive service is necessary to protect the public from future crime or to punish the offender.” *Id.* Next, the trial court must find that “consecutive sentences are not disproportionate to the seriousness of the offender’s conduct and to the danger the offender poses to the public.” *Id.* Finally, the trial court must find that at least one of the following applies: (1) the offender committed one or more of the multiple offenses while awaiting trial or sentencing, while under a sanction imposed under R.C. 2929.16, 2929.17, or 2929.18, or while under postrelease control for a prior offense; (2) at least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the offenses was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the offender’s conduct; or (3) the offender’s history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender. R.C. 2929.14(C)(4)(a)-(c)._

{¶9} The trial court is not required to give a “talismanic incantation of the words of the statute” when imposing consecutive sentences. *State v. Bonnell*, 140 Ohio St.3d 209, 2014-Ohio-3177, 16 N.E.3d 659, ¶ 37. Indeed, the Ohio Supreme Court has stated that

a word-for-word recitation of the language of the statute is not required, and as long as the reviewing court can discern that the trial court engaged in the correct analysis and can determine that the record contains evidence to support the findings, consecutive sentences should be upheld.

Id. at ¶ 29. Additionally, the trial court is required to incorporate its findings into its sentencing entry. *Id.* at the syllabus._

{¶10} After a review of the sentencing hearing, we conclude that the trial court made the required R.C. 2929.14(C)(4) findings and incorporated those findings into the sentencing entry. The court considered the record, statements made at sentencing, the presentence investigation report, the principles and purposes under R.C.2929.11, and the factors under R.C. 2929.12. The court stated that consecutive sentences were “necessary to deter the offender in order to protect the public from future crimes” and were “not disproportionate to the seriousness of the offender’s conduct and to the danger the offender poses to the public.” The court further stated that

these were multiple offense[s], that they were committed against multiple victims, and * * * that they were part of one or more courses of conduct, and that the harm caused by these multiple offenses so committed was so great or unusual that no single prison term for any of the offenses committed as part of the courses of conduct adequately reflect the seriousness of the offender’s conduct.

Furthermore, this Court believes that if you have multiple victims, that each of those victims deserve to know that * * * the defendant is being sentenced to prison because of the acts that he portrayed on them.

{¶11} In addition, the trial court expressed concern that Wahdan did not show “true remorse” and believed that the charges were serious enough where “a prison term is commensurate with what [Wahdan] has done.”

{¶12} Based on the foregoing, we find that the record supports the trial court’s imposition of consecutive sentences under R.C. 2929.14(C)(4)._

{¶13} Accordingly, the sole assignment of error is overruled.

{¶14} Judgment is 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 court to carry this judgment into execution. The defendant’s conviction having been affirmed, any bail pending appeal is terminated.

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

MARY EILEEN KILBANE, JUDGE

LARRY A. JONES, SR., A.J., and
EILEEN T. GALLAGHER, J., CONCUR