[Cite as *State v. Bakos*, 2023-Ohio-2827.]

IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
ASHTABULA COUNTY

STATE OF OHIO, Plaintiff-Appellee, - vs - ADAM LEE BAKOS, Defendant-Appellant.	**CASE NO. 2022-A-0098** Criminal Appeal from the Court of Common Pleas Trial Court No. 2022 CR 00321

O P I N I O N

Decided: August 14, 2023
Judgment: Reversed and remanded

Colleen M. O'Toole, Ashtabula County Prosecutor, and *Christopher R. Fortunato*, Assistant Prosecutor, 25 West Jefferson Street, Jefferson, OH 44047 (For Plaintiff-Appellee).

David N. Patterson, P.O. Box 1423, Willoughby, OH 44096 (For Defendant-Appellant).

JOHN J. EKLUND, P.J.

{¶1} Appellant, Adam Bakos, appeals the judgment of the Ashtabula County Court of Common Pleas, imposing a lifetime license suspension for violating R.C. 4511.19(A)(1)(d), Operating Vehicle Under the Influence of Alcohol or Drugs – OVI, which was a fifth violation within twenty years of the offense, a fourth-degree felony under R.C. 4511.19(G)(1)(d).

{¶2} Appellant has raised a single assignment of error arguing that the trial court's sentence imposing a lifetime license suspension was contrary to law.

{¶3} Having reviewed the record and the applicable caselaw, we find appellant's assignment of error to have merit. The State and appellant entered a stipulated sentence for the minimum mandatory penalties to be imposed for a fourth-degree OVI. The trial court's judgment entry of sentence stated that the sentence was pursuant to the stipulated sentence under R.C. 2953.08(D). However, the trial court did not impose the stipulated minimum mandatory license suspension penalty of three years.

{¶4} Therefore, we reverse the judgment of the Ashtabula County Court of Common Pleas and remand to the trial court for further proceedings consistent with this opinion.

Substantive and Procedural History

{¶5} On May 6, 2022, appellant was arrested for OVI and charged with a first-degree misdemeanor under R.C. 4511.19(A)(1)(a)(2) and R.C. 4511.19(A)(a)(d)(2) in the Ashtabula County Court, Eastern Area. After his arraignment, the court issued a judgment entry stating that the OVI charge should be indicted as a felony based on appellant's prior convictions.

{¶6} On June 9, appellant was indicted in the Ashtabula County Court of Common Pleas on one count of OVI under R.C. 4511.19(A)(1)(d), a felony of the third degree under R.C. 4511.19(G)(1)(e).

{¶7} On August 3, the State filed a superseding indictment charging appellant with one count of OVI under R.C. 4511.19(A)(1)(d), a felony of the fourth degree under R.C. 4511.19(G)(1)(d).

{¶8} On September 27, the State moved to dismiss the original indictment and appellant pled guilty to the fourth-degree felony OVI.

{¶9} The record does not contain a transcript of the plea hearing. The written plea agreement between appellant and the State provided a list of the maximum penalties associated with the offense and included a line "I understand that restitution, other financial costs and other consequences: (e.g. license suspension) are possible as follows: A class two suspension of the Driver's Licenses (3 yrs to life.)"

{¶10} The plea agreement further stated that the recommendation for sentencing was: "Stipulate to an agreed upon sentence of minimum mandatory penalties for the F4 DUI; including mandatory Alcohol/drug addition [sic] program; mandatory restricted plates."

{¶11} Below that paragraph, the written plea agreement provided: "I understand that any recommendation of sentence to the Court by the State is not binding in any way on the Court and that any sentence to be imposed is in the sole discretion of the Court. This sentence is a stipulated and agreed to sentence by the parties for the purposes identified in R.C. 2953.08(D)(1)."

{¶12} The trial court sentenced appellant on November 4. Again, the record does not contain a transcript of the sentencing hearing. The trial court's judgment entry of sentence states that the trial court considered "the principles and purposes of sentencing under R.C. 2929.11, has balanced the seriousness and recidivism factors under R.C. 2929.12, and has considered the factors under R.C. 2929.12(B)."

{¶13} The judgment entry of sentence states: "Said sentence is a stipulated sentence pursuant to R.C. 2953.08." The trial court sentenced appellant to serve the minimum mandatory 60 days jail, pay the minimum mandatory fine of $1,350, engage in

a mandatory alcohol treatment program, and finally, a lifetime suspension of appellant's motor vehicle operating privileges.

{¶14} Appellant timely appealed raising one assignment of error.

Assignments of Error and Analysis

{¶15} Appellant's sole assignment of error states:

{¶16} "THE APPELLANT WAS DENIED DUE PROCESS BY A SENTENCE CONTRARY TO OHIO LAW AND THE STATE AND FEDERAL CONSTITUTIONS WHEN THE TRIAL COURT ORDERED A LIFETIME SUSPENSION OF THE APPELLANT'S MOTOR VEHICLE OPERATING PRIVILEGES UPON A CONVICITON OF OVI, AS A FELONOY OF THE FOURTH DEGREE."

{¶17} To be a legal OVI sentence, the penalties imposed must fall within the range set forth in R.C. 4511.19(G). For a defendant with five or more OVI convictions within the prior twenty years, a fourth-degree felony under R.C. 4511.19(A)(1)(d), the full list of minimum mandatory and maximum penalties under R.C. 4511.19(G)(1)(d) are as follows:

> -- 60 days incarceration up to 1 year or 60 days prison, with option of additional six to 30 months, up to five years imprisonment;
>
> -- a fine of $1,350 up to a fine of $10,500;
>
> -- a class two three year to lifetime license suspension;
>
> -- mandatory alcohol/drug addiction program;
>
> -- mandatory restricted license plates if driving privileges are granted;
>
> -- mandatory forfeiture of the vehicle used in the offense if it is registered to the defendant.

{¶18} In reference to the license suspension, R.C. 4511.19(G)(1)(d) provides:

The court shall sentence the offender for either offense under Chapter 2929. of the Revised Code, except as otherwise authorized or required by divisions (G)(1)(a) to (e) of this section:

> * * *
>
> (iv) In all cases, a class two license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(2) of section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under sections 4510.021 and 4510.13[1] of the Revised Code.

{¶19} R.C. 4510.02(A)provides:

[w]hen a court elects or is required to suspend the driver's license * * * of any offender from a specified suspension class, for each of the following suspension classes, the court shall impose a definite period of suspension from the range specified for the suspension class:

> (2) For a class two suspension, a definite period of three years to life;

{¶20} The above listed jail time, fine, and driving suspension each have a minimum mandatory penalty as well as a statutory maximum that may be imposed. In this

1. R.C. 4510.13(A)(5) provides that "No judge * * * shall grant limited driving privileges to an offender whose driver's * * * has been suspended under division (G) or (H) of section 4511.19 of the Revised Code, * * * during any of the following periods of time: * * *

(g) The first three years of a suspension imposed under division (G)(1)(d) or (e) of section 4511.19 of the Revised Code * * *. On or after the first three years of suspension, the court may grant limited driving privileges, and either of the following applies:

> (i) If the underlying conviction is alcohol-related, the court shall issue an order that, except as provided in division (C) of section 4510.43 of the Revised Code, for the remainder of the period of suspension the offender shall not exercise the privileges unless the vehicles the offender operates are equipped with a certified ignition interlock device.
> (ii) If the underlying conviction is drug-related, the court in its discretion may issue an order that, except as provided in division (C) of section 4510.43 of the Revised Code, for the remainder of the period of suspension the offender shall not exercise the privileges unless the vehicles the offender operates are equipped with a certified ignition interlock device.

case, the trial court imposed the minimum mandatory jail sentence and fine. However, the trial court imposed a license suspension greater than the minimum mandatory three-year suspension required by law.

{¶21} The State contends that the license suspension is "not so much a portion of the sentence in terms of incarceration, community control sanction or fine, but is an added provision imposed for those who commit traffic offenses and a suspension of an operator's license is also favored." This argument attempts to sever the license suspension from the stipulated sentence. However, the State has not cited any case law to support its argument that the license suspension is not a part of the sentence.

{¶22} The Ohio Supreme Court has held that "[b]ecause a mandatory driver's license suspension is a statutorily mandated term, * * * a trial court's failure to include this term in a criminal sentence" renders the sentence voidable. *State v. Harris*, 132 Ohio St.3d 318, 2012-Ohio-1908, 972 N.E.2d 509, ¶ 15; *State v. Henderson*, 161 Ohio St.3d 285, 2020-Ohio-4784, 162 N.E.3d 776, ¶ 23. (Overruling *Harris* in part and holding that sentences based on error are voidable rather than void where the trial court had jurisdiction to impose sentence.)

{¶23} Similarly, appellate courts have concluded that a "mandatory license suspension is part of a defendant's maximum penalty" which implicates the "maximum penalty involved" requirements of Crim.R. 11(C)(2)(a). *State v. Thompson,* 2nd Dist. Montgomery No. 28308, 2020-Ohio-211, ¶ 6; *State v. Basehart*, 5th Dist. Muskingum No. CT2021-0010, 2022-Ohio-904, ¶ 18, *appeal not allowed*, 167 Ohio St.3d 1451, 2022-Ohio-2246, 189 N.E.3d 826; *State v. Stroughter*, 7th Dist. Mahoning No. 11 MA 86, 2012-

Ohio-1504,¶ 15; *State v. Steers,* 4th Dist. Washington No. 96CA12, 1997 WL 79882, *2 (Feb. 20, 1997).

{¶24} In *State v. Zsigray*, 11th Dist. Ashtabula No. 2020-A-0044, 2021-Ohio-1457, in the context of a lifetime license suspension for aggravated vehicular homicide, we concluded that the "Ohio General Assembly has deemed a lifetime driver's license suspension to be an appropriate part of a sentence for Aggravated Vehicular Homicide" where R.C. 2903.06(B)(3) imposed a class two suspension of the driver's license pursuant to R.C. 4510.02(A)(2). *Id.* at ¶ 18.

{¶25} As in *Zsigray*, a fourth-degree felony OVI under R.C. 4511.19(G)(1)(d) mandates the trial court "shall sentence the offender" to a class two license suspension pursuant to R.C. 4510.02(A)(2) as "an appropriate part of a sentence." *See Zsigray* at ¶ 18. We reject the State's argument that a license suspension is not "a portion of the sentence."

{¶26} Therefore, the trial court imposed a license suspension penalty greater than the minimum mandatory license suspension to which the State and appellant stipulated.

{¶27} Appellant has argued the trial court's lifetime license suspension violated his due process rights while the State argues that the sentence the trial court imposed is not reviewable under R.C. 2953.08(D) because it was a stipulated sentence.

{¶28} Due process concerns are implicated in "whether the accused was put on notice that the trial court might deviate from the recommended sentence or other terms of the agreement before the accused entered his plea and *whether the accused was given an opportunity to change or to withdraw his plea* when he received this notice." *Id.*, citing Katz & Giannelli, *Criminal Law*, Section 44.8, at 154-155, (1996).

{¶29} There is no due process violation where the defendant is forewarned of the possibility that the trial court may impose a greater penalty than the one forming the inducement for the plea. *State ex rel. Duran v. Kelsey*, 106 Ohio St.3d 58, 2005-Ohio-3674, 831 N.E.2d 430, ¶ 6.

{¶30} "[T]he touchstone for determining constitutional fairness in plea submissions is notice." *Elliott*, 2021-Ohio-424, 168 N.E.3d 33 at ¶ 18. Where the trial court does not provide adequate notice that it will not accept a stipulated plea, "the remedy is to resentence the defendant in accordance with the recommendation or allow the defendant to withdraw his plea." *Id.* at ¶ 19; *See Allgood, supra,* at *3.

{¶31} Here, appellant was forewarned that the trial court need not accept a recommended sentence. However, being forewarned that the trial court may not accept a recommended sentence does not end the inquiry because if a trial court accepts a stipulated sentence, then the court agrees to be bound by it. *State v. Elliott*, 1st Dist. No. C-190430, 2021-Ohio-424, 168 N.E.3d 33, ¶ 21. Although a trial court may accept or reject a stipulated sentence, where the trial court accepts the agreement, the imposition of anything other than that stipulated sentence renders it voidable. *Id.*, quoting *State v. Patrick,* 8th Dist. No. 84963, 163 Ohio App.3d 666, 2005-Ohio-5332, 839 N.E.2d 987, ¶ 26.

{¶32} Although a recommended sentence is a non-binding recommendation that the trial court may accept or reject, an agreed or stipulated sentence contains terms "'implying set guarantees.'" *Id.* at ¶ 15, quoting *City of Warren v. Cromley*, 11th Dist. Trumbull No. 97-T-0213, 1999 WL 76756, *3 (Jan. 29, 1999). "[A]ny ambiguity is generally resolved in favor of the defendant," and "we will presume that the trial court gave appellant

the impression that it was accepting the terms of the agreement before appellant" entered a plea. *Cromley* at *3, citing *State v. Allgood,* 9th Dist. Lorain No. 90CA004903, 1991 WL 116269, *2 (June 19, 1991).

{¶33} Here, despite the lack of the sentencing transcript, we conclude that the trial court accepted the stipulated sentencing recommendation. First, at oral arguments, the State acknowledged the trial court did adopt the stipulated sentence. As discussed and rejected above, the State argued the license suspension was not part of the minimum mandatory penalty and thus not taken into account as collateral issues.

{¶34} Second, the sentencing recommendation between appellant and the State provided that the parties: "Stipulate to an agreed upon sentence of minimum mandatory penalties for the F4 DUI; including mandatory Alcohol/drug addition [sic] program; mandatory restricted plates." Although the next line of the plea agreement stated that the recommended sentence was non-binding, the trial court's judgment entry of sentence states: "Said sentence is a stipulated sentence pursuant to R.C. 2953.08." In stating this, the trial court acknowledged that it agreed with the stipulated sentence the State and appellant submitted.

{¶35} It might be argued that the placement of the phrase "said sentence is a stipulated sentence" in the trial court's judgment entry of sentence suggests that whatever followed that phrase is not a portion of the stipulated sentence. However, such a conclusion is without support.

{¶36} The State's acknowledgement that the trial court adopted the stipulated sentencing recommendation severely undercuts such a position. The State does not argue that the trial court only adopted one very small portion of the stipulated sentence.

Indeed, the State argued that this matter was not subject to review under R.C. 2953.08(D)(1) because the jointly recommended sentence was imposed by the trial court.

{¶37} Next, the only portion of the sentence preceding the phrase "said sentence is a stipulated sentence" is the imposition of certain community control sanctions. That portion of the sentencing entry did not impose the agreed minimum mandatory fine, minimum mandatory jail term, or mandatory alcohol treatment program. These were the terms that were part of the recommended stipulated sentence and which the trial court did in fact impose. Accepting an alternative reading of the sentencing entry would lead to the absurd result that these portions of the sentence were not in fact part of "said * * * stipulated sentence" the trial court imposed. Indeed, the community control sanctions mentioned in the portion of the sentence which preceded the phrase "said sentence is a stipulated sentence" were not terms which the plea agreement between appellant and the State even contemplated. The only fair reading of the judgment entry of sentence is that the trial court adopted the parties' stipulated plea agreement.

{¶38} Although the lack of sentencing or plea hearing transcript might suggest some ambiguity on the question of what exactly was the "stipulated sentence," this is not the case. There is only one stipulation in the record before us – that the sentence would be the "minimum mandatory penalties for the F4 DUI * * *." There is nothing in the record to suggest that the court was presented with any stipulation that excluded from the term of the license suspension which, as discussed above, is a part of the OVI penalties and part of the sentence. Therefore, the trial court agreed to be bound by the stipulated sentence and any ambiguity the circumstances of this might create should be resolved in favor of appellant. *Cromley,* 1999 WL 76756 at *3.

{¶39} Although the trial court's judgment entry states that the sentence was a stipulated sentence, the discussion above regarding the license suspension demonstrates that the trial court did not in fact impose the sentence to which the parties stipulated and the trial court accepted. The parties stipulated to a sentence to the minimum mandatory penalties. Here, the trial court did impose the minimum mandatory jail sentence of 60 days incarceration, minimum mandatory fine of $1,350, and mandatory alcohol treatment program. However, the trial court did not impose the minimum mandatory three-year license suspension. As discussed above, the license suspension is part of the maximum penalty and is an appropriate part of the sentence. In imposing a license suspension longer than the minimum mandatory penalty, the trial court failed to impose the stipulated sentence that it accepted in its judgment entry of sentence.

{¶40} Therefore, the trial court violated appellant's due process rights by accepting a stipulated sentence to the minimum mandatory penalties under R.C. 4511.19(G)(1)(d) and then imposing the maximum lifetime license suspension. This was error, not because the trial court was bound to accept this stipulated sentence or because imposing a lifetime license suspension was contrary to law, but because the trial court's judgment entry stated that sentence was a stipulated sentence but did not sentence appellant according to the stipulated sentence presented by the parties.

{¶41} Appellant's sentence is voidable due to an irregular or erroneous judgment entry of sentence. *See State v. Payne*, 114 Ohio St.3d 502, 2007-Ohio-4642, 873 N.E.2d 306, ¶ 27.

{¶42} Accordingly, appellants' sole assignment of error has merit. The judgment of the Ashtabula County Court of Common Pleas is reversed. This matter is remanded

for resentencing pursuant to the stipulated sentence or for the trial court to notify appellant that it will not accept the stipulated sentence to the minimum mandatory penalties, including the term of the license suspension, and allow appellant to withdraw his guilty plea if he so chooses. *Elliott*, 2021-Ohio-424, 168 N.E.3d 33 at ¶ 18.

MATT LYNCH, J., concurs,

EUGENE A. LUCCI, J., dissents with a Dissenting Opinion.

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{¶43} I dissent.

{¶44} Initially, I note that I agree with aspects of the majority's discussion. The license suspension is a part of appellant's sentence. Thus, I agree that "the trial court imposed a license suspension penalty greater than the minimum mandatory license suspension to which the State and appellant stipulated." Further, I agree that the license suspension is subject to review, as it exceeded the stipulated sentence. *Compare* R.C. 2953.08(D)(1) ("A sentence imposed upon a defendant is not subject to review under this section if the sentence is authorized by law, has been recommended jointly by the defendant and the prosecution in the case, and is imposed by a sentencing judge."). However, I disagree with the majority's conclusion on which its reversal is premised, i.e., that the trial court "accepted [the stipulated sentence] in its judgment entry of sentence[.]"

{¶45} Although I do address my points of contention below with respect to the majority's analysis, I first note that it is most significant to my dissent that nowhere in

appellant's brief has he argued that the court accepted the stipulated sentence. In fact, the "stipulated sentence" is of such little consequence to the arguments appellant raises, he never once references the stipulated nature of his sentence in the entirety of his brief. Thus, the majority has crafted its own argument to support appellant's assigned error, relieving appellant of his burden of demonstrating prejudicial error on appeal. *See Knapp v. Edwards Laboratories*, 61 Ohio St.2d 197, 199, 400 N.E.2d 384 (1980), citing *State v. Skaggs*, 53 Ohio St.2d 162, 372 N.E.2d 1355 (1978); see also App.R. 16(A)(7) (appellant's brief to include "[a]n argument containing the contentions of the appellant with respect to each assignment of error presented for review and the reasons in support of the contentions, with citations to the authorities, statutes, and parts of the record on which appellant relies.").

{¶46} Accordingly, I would limit discussion to the issue that appellant did raise in support of his assigned error: whether the court erred by failing to consider the overall purposes of felony sentencing, the likelihood of recidivism, and the need to protect the public from serious harm when imposing the lifetime license suspension. As I do not believe that appellant has demonstrated any error, I would affirm the decision of the trial court. Therefore, I dissent on this basis.

{¶47} Nonetheless, as the majority has resolved this appeal based on its position that the trial court adopted the stipulated sentence, I believe it prudent to proceed to address certain areas where I depart from the majority's analysis. With respect to the sentencing entry, it affirmatively recognizes adoption of only a portion of the stipulated sentence, as follows:

> **IT IS HEREBY ORDERED** that Defendant be sentenced to **five (5)** years of Community Control. With (sic.) the following additional conditions:
>
> A: Defendant shall obey the laws of the State of Ohio and the United States.
>
> B: Defendant shall not leave the State of Ohio without the permission of the Court or his supervising officer.
>
> C: Defendant shall not enter bars, taverns, restaurants or establishments where alcohol is served for consumption.
>
> D: Defendant shall not possess nor consume any alcohol or Marijuana, even if legalized, or product containing THC. The Defendant shall not use or possess any vaping device or product. The Defendant shall not possess or consume any drugs including pseudoephedrine products, unless prescribed by an M.D., D.O. or dentist.
>
> *Said sentence is a stipulated sentence pursuant to R.C. 2953.08.*

(Boldface and capitalization sic.) (Italicization added for emphasis.)

{¶48} Not until several paragraphs later does the sentencing entry reach the issue of the license suspension:

> For convictions under Count One of the Indictment, and pursuant to Ohio Revised Code, the **COURT FURTHER ORDERS** a LIFETIME SUSPENSION of the DEFENDANT'S MOTOR VEHICLE OPERATING PRIVILEGES from this date of sentencing, to-wit: November 4, 2022.

(Boldface and capitalization sic.)

{¶49} Accordingly, there is no indication from the sentencing entry that the court adopted, or at any point agreed to adopt, the stipulated sentence aside from the portion of the sentence listed prior to the statement, "Said sentence is a stipulated sentence pursuant to R.C. 2953.08." *See Elliott*, 2021-Ohio-424, at ¶ 12 (trial court's acceptance of a stipulated sentence "is not an all-or-nothing proposition. The trial court has discretion to accept or * * * reject a plea agreement in part"). It does not follow, as the majority

contends, that the entry could not be read as thereafter imposing other terms of the sentence consistent with the stipulated sentence. Instead, the sentencing entry is silent as to whether remaining portions of the sentence were stipulated, and I know of no requirement that the court must identify the parties' agreement as to any sentencing terms that the court imposes.

{¶50} Further, if the sentencing entry erred in identifying which terms of the sentence were stipulated, it does not alter the express terms of the sentence. Instead, whether a term of a sentence is stipulated pertains to whether that term is reviewable on appeal. *See* R.C. 2953.08(D)(1).

{¶51} Moreover, the majority places great weight on "[t]he State's acknowledgement that the trial court adopted the stipulated sentencing recommendation[.]" We are not obliged to adopt the State's position as to the court's actions, and the majority provides no basis for its conclusion that the State's position "severely undercuts" the plain wording of the sentencing entry. Further, the majority rejects the State's position that the license suspension is not a part of the sentence. To the extent that the State advanced such a position, I likewise disagree, as previously stated. Why the majority then relies on the State's position that the court accepted the "sentence," when it disagrees with the State as to what constitutes the "sentence," is puzzling.

{¶52} The majority then proceeds to identify the ways in which it views the terms of the sentencing entry as being inconsistent with the statement therein that "[s]aid sentence is a stipulated sentence pursuant to R.C. 2953.08." The majority's conclusion that "[t]he only fair reading of the judgment entry of sentence is that the trial court adopted

the parties' stipulated plea agreement," is directly at odds with the express terms of the sentencing entry that exceed the stipulated sentence.

{¶53} Moreover, appellant does not argue that the trial court inserted itself in plea negotiations, promised to accept the terms of the agreement, or failed to forewarn him of the possibility of deviation from the agreed sentence. *See Elliott*, 2021-Ohio-424, at ¶ 10-11, 18 (citing cases for the proposition that a trial court is not bound to a plea agreement absent its participation in the plea agreement, its promise to accept the agreement, or its failure to put the accused on notice that it may deviate from an agreed sentence). Further, any such contentions would lack support, as appellant did not secure transmittal of the transcript of the plea hearing, and the record before us is devoid of any indication that the trial court in any way agreed to adopt the stipulated sentence prior to appellant entering his plea. *See State v. McBride*, 11th Dist. Trumbull No. 2016-T-0006, 2017-Ohio-891, ¶ 11 (in the absence of a transcript, reviewing court presumes regularity in trial court's proceedings). Further, the written plea agreement indicates that appellant was properly advised that the offense to which he was pleading guilty would result in a driver's license suspension of three years to life and that *the state* agreed to the minimum mandatory penalties for a fourth-degree felony OVI. The written plea agreement provides appellant's acknowledgement that "I understand that any recommendation of sentence to the Court by the State is not binding in any way on the Court and that any sentence to be imposed is in the sole discretion of the Court. This sentence is a stipulated and agreed to sentence by the parties for the purposes identified in R.C. 2953.08(D)(1)." Consequently, because the sentencing entry does not adopt the stipulated sentence with respect to the license suspension, the record before us does not indicate that the court agreed to adopt the

stipulated sentence prior to accepting the plea, and appellant was notified that the court could deviate from the stipulated sentence, I disagree with the majority's basis for reversal.

{¶54} Therefore, I would affirm the judgment of the trial court.