

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

STATE OF OHIO	:	JUDGES:
	:	Hon. W. Scott Gwin, P.J.
	:	Hon. Craig R. Baldwin, J.
Plaintiff-Appellee	:	Hon. Andrew J. King, J.
	:	
-vs-	:	
	:	Case No. 2022-CA-0082
SHAVIEZ BRADLEY	:	
	:	
Defendant-Appellant	:	<u>OPINION</u>

CHARACTER OF PROCEEDING: Appeal from the Richland County Court of
Common Pleas, Case No. 2021 CR 0603R

JUDGMENT: Affirmed

DATE OF JUDGMENT ENTRY: August 14, 2023

APPEARANCES:

For Plaintiff-Appellee

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For Defendant-Appellant

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Gwin, P.J.

{¶1} Defendant-appellant Shaivez X. Bradley [“Bradley”] appeals his conviction and sentence after a negotiated guilty plea in the Richland County Court of Common Pleas.

Facts and Procedural History

{¶2} On or about July 9, 2021, Bradley took \$57.00 out of the vehicle owned by C.M. without permission. Bradley then pulled up his shirt and showed C.M. a gun in the waistband of his pants, stating "drive off or I will shoot you." T. *Plea and Sentencing*, Oct. 14, 2022 at 14-15.

{¶3} On August 4, 2021, Bradley was indicted on four counts. Count 1: Aggravated Robbery in violation of R.C. 2911.01(A)(1)(C), a felony of the first degree, with both a three year [R.C. 2941.145(A)] and a one-year [R.C. 2941.141(A)] gun specification; Count 2: Robbery in violation of R.C. 2911.01(A)(1)(B), a felony of the second degree, with both a three year [R.C. 2941.145(A)] and a one-year [R.C. 2941.141(A)] gun specification; Count 3: Robbery in violation of 2911.02(A)(3)(B), a felony of the third degree, with both a three year [R.C. 2941.145(A)] and a one-year [R.C. 2941.141(A)] gun specification; and Count 4: Having Weapons While Under Disability in violation of R.C. 2923.13(A)(2)(B), a felony of the third degree.

{¶4} On October 17, 2022, a written Admission of Guilt/Judgment Entry was filed signed by Bradley, his attorney, and the prosecuting attorney. [Docket Entry No. 67]. Bradley agreed to plead guilty to Counts 3 and 4, with a one-year gun specification, and the remainder of the charges were dismissed by the state. In addition, Bradley agreed

1). to a 54-month prison sentence; 2). that no judicial release would be granted and; 3). that the parties jointly recommended this disposition. Id.

{¶5} On October 14, 2022, Bradley entered guilty pleas in open court. The trial court very carefully adhered to Criminal Rule 11. The trial court conducted a complete and thorough colloquy. Bradley acknowledged he understood his rights, the charges, the plea agreement, the maximum penalties, and the specific constitutional rights he was waving with the plea. Bradley further acknowledged the 54 month jointly recommended sentence.

{¶6} The trial court sentenced Bradley to 24 months on Count 3, 18 months on Count 4 and 1 year on the firearm specification. All sentences are to run consecutive for an aggregate sentence of 54 months.

{¶7} Bradley filed a Motion for Delayed Appeal on December 8, 2022. By Judgment Entry filed December 13, 2022, this Court granted Bradley's motion.

Assignment of Error

{¶8} Bradley raises one Assignment of Error,

{¶9} "I. THE TRIAL COURT JUDGE'S SENTENCE IN THIS MATTER WAS NOT SUPPORTED BY THE RECORD."

Law and Analysis

{¶10} Bradley's assignment of error suggests that his consecutive sentences were not clearly and convincingly supported by the record.

{¶11} Bradley's sentence was authorized by law, was recommended jointly by him and the prosecution, and was imposed by a sentencing judge. If a jointly recommended sentence includes non-mandatory consecutive sentences and the trial judge fails to make

the consecutive-sentence findings set out in R.C. 2929.14(C)(4), the sentence is nevertheless “authorized by law,” and therefore is not appealable pursuant to R.C. 2953.08(D)(1). *State v. Sergeant*, 148 Ohio St.3d 94, 2016-Ohio-2696, 69 N.E.3d 672, ¶30. “The General Assembly intended a jointly agreed-upon sentence to be protected from review precisely because the parties agreed that the sentence is appropriate. Once a defendant stipulates that a particular sentence is justified, the sentencing judge no longer needs to independently justify the sentence.” *State v. Porterfield*, 106 Ohio St.3d 5, 2005-Ohio-3095, 829 N.E.2d 690, ¶24.

{¶12} Although not required to do so, the trial court made findings pursuant to R.C. 2929.14(C)(4). Specifically, it found “consecutive sentences necessary to protect the public, punish the offender, not disproportionate to the seriousness of the conduct of the danger posed, and because these were multiple offenses committed as part of a course of conduct and the harm caused by two or more multiple offenses was so great or unusual that no single prison term adequately reflects the seriousness of the conduct by the offender and the criminal history demonstrates it’s necessary to protect the public and punish the offender.” T. *Plea and Sentencing*, Oct. 14, 2022 at 17-18.

{¶13} Accordingly, any argument on appeal that his consecutive sentences are not clearly and convincingly supported by the record is without merit.

{¶14} Bradley's sole Assignment of Error is overruled.

{¶15} The judgment of the Richland County Court of Common Pleas is affirmed.

By Gwin, P.J.,

Baldwin, J., and

King, J., concur