

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State of Ohio

Court of Appeals No. L-26-00040

Appellee

Trial Court No. CR-25-1150

v.

Joshua Mauder

DECISION AND JUDGMENT

Appellant

Decided: October 23, 2026

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
Randy L. Meyer, Assistant Prosecuting Attorney, for appellee.

Samuel E. Gold, for appellant.

* * * * *

MAYLE, J.

{¶ 1} Appellant, Joshua Mauder, appeals the December 23, 2025 judgment of the
Lucas County Court of Common Pleas sentencing him following his convictions of

attempted domestic violence and attempted strangulation. For the following reasons, we affirm.

I. Background and Facts

{¶ 2} Mauder was indicted on one count each of domestic violence in violation of R.C. 2919.25(A), a third-degree felony, and strangulation in violation of R.C. 2903.18(B)(3), a third-degree felony. At the time of his indictment, Mauder was on postrelease control for a prior felony conviction.

{¶ 3} Mauder and the State reached an agreement under which Mauder agreed to plead guilty to amended charges of attempted domestic violence in violation of R.C. 2919.25(A) and 2923.02, a fourth-degree felony, and attempted strangulation in violation of R.C. 2903.18(B)(3) and 2923.02, a fourth-degree felony. The State agreed to recommend that Mauder serve any confinement in a treatment program and that the sentences run concurrently.

{¶ 4} The trial court conducted a plea colloquy, and concluded that Mauder had made a knowing, intelligent, and voluntary decision to plead guilty to the charges. The court found Mauder guilty.

{¶ 5} At the sentencing hearing, the trial court first determined that Mauder's offenses were not allied offenses of similar import. The court did not hear a statement from the victim, Mauder's wife, but noted that she had sent the court two letters in which she asked for Mauder to come home. After hearing statements from defense counsel and Mauder, the court explained that it was required to consider the principles and purposes of sentencing in R.C. 2929.11 and the seriousness and recidivism factors in R.C. 2929.12.

The court discussed several of the factors in R.C. 2929.12 that applied to Mauder. The court went on to note that Mauder's ORAS score showed that he was a "very high risk" to reoffend, he had a significant history of domestic violence convictions, and he committed the underlying offenses just seven months after serving a prison sentence for domestic violence. The court concluded that Mauder "is not amenable to community control and that prison is consistent with the purposes of Revised Code 2929.11." The court sentenced Mauder to 12 months in prison on each count and ordered that they be served concurrently.

{¶ 6} After sentencing Mauder, the court considered Mauder's postrelease control violation. The court found that Mauder was under postrelease control sanctions at the time he committed the underlying offenses and the underlying offenses "are the same offense for which [Mauder] previously served [a] prison term." Under R.C. 2967.28(F)(4), the court "impose[d] a prison term of the maximum period of post-release control . . . , minus any time [Mauder] has spent under post-release control or twelve months, whichever is greater" This resulted in an additional sentence of 1,416 days, which the court ordered to be served consecutively to the sentence for the convictions in this case.

{¶ 7} Mauder now appeals, raising the following assignment of error:

THE TRIAL COURT ERRED WHEN IMPOSING A TERM OF INCARCERATION FOR A FIFTH [sic] DEGREE FELONY RATHER THAN COMMUNITY CONTROL[.]¹

¹ In his statement of the assignment of error, Mauder assigns the following error: "The trial court erred when imposing the balance of Appellant's time on Post-Release Control, 3.

II. Law and Analysis

{¶ 8} In his assignment of error, Mauder argues that the trial court erred by sentencing him to prison instead of community control. He implies that the trial court incorrectly weighed the factors in R.C. 2929.11 and 2929.12 and contends that the court abused its discretion by sentencing him to prison, considering the jointly recommended sentence of a term of local incarceration at a treatment facility and the victim’s desire for him to return home.

{¶ 9} We review felony sentencing challenges under R.C. 2953.08(G)(2). *See State v. Kleinhans*, 2023-Ohio-2621, ¶ 24 (6th Dist.). Under that statute, an appellate court “may increase, reduce, or otherwise modify a sentence that is appealed under this section or may vacate the sentence and remand the matter to the sentencing court for resentencing” only if it clearly and convincingly finds either of the following:

(a) That the record does not support the sentencing court’s findings under division (B) or (D) of section 2929.13, division (B)(2)(e) or (C)(4) of section 2929.14, or division (I) of section 2929.20 of the Revised Code, whichever, if any, is relevant;

(b) That the sentence is otherwise contrary to law.

R.C. 2953.08(G)(2). Notably, our “standard for review is not whether the sentencing court abused its discretion.” R.C. 2953.08(G).

when the imposition was not mandatory.” In the body of his brief, however, he assigns the error quoted above, and he argues that the trial court should have imposed community control instead of a prison term. In the interest of justice, we will accept the error assigned in the body of the brief as Mauder’s assignment of error and will analyze his arguments accordingly.

{¶ 10} R.C. 2929.13(B)(1)(a) creates a presumption against imposing prison time and in favor of community control sanctions for nonviolent fourth- or fifth-degree felonies that meet certain criteria, including that the offender has not previously been convicted of or pleaded guilty to a felony offense. R.C. 2929.13(B)(1)(a)(i). This presumption does not apply to Mauder for two reasons. First, both domestic violence and strangulation are offenses of violence. R.C. 2901.01(A)(9)(a). Second, Mauder was previously convicted of felony offenses. Thus, Mauder cannot rely on this presumption to support his argument that a prison sentence was inappropriate.

{¶ 11} When R.C. 2929.13(B)(1) does not apply, “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.” R.C. 2929.13(B)(2). The trial court here specifically stated that it considered R.C. 2929.11 and 2929.12 when it was sentencing Mauder and addressed the factors on the record, which is more than it was required to do. *See State v. Shiffert*, 2024-Ohio-4952, ¶ 25 (6th Dist.) (trial court is not required to make specific findings under R.C. 2929.11 and 2929.12, and court’s consideration of the factors is presumed even on a silent record).

{¶ 12} To the extent that Mauder is arguing that the trial court improperly weighed the factors in R.C. 2929.11 and 2929.12, we are not permitted to independently weigh the evidence and substitute our judgment for the trial court’s regarding the appropriate sentence under R.C. 2929.11 and 2929.12. *State v. Palmer*, 2022-Ohio-2293, ¶ 13 (6th 5.

Dist.), citing *State v. Jones*, 2020-Ohio-6729, ¶ 39, 41-42; *State v. Toles*, 2021-Ohio-3531, ¶ 10 (Brunner, J., concurring) (R.C. 2953.08 “precludes second-guessing a sentence imposed by a trial court based on its weighing of the considerations in R.C. 2929.11 and 2929.12.”).

{¶ 13} As additional support for his argument, Mauder cites R.C. 2929.19(B)(4), which states, “[i]f the sentencing court determines at the sentencing hearing that a community control sanction should be imposed and the court is not prohibited from imposing a community control sanction, the court shall impose a community control sanction.” This statute does not help him because it simply says that *if* the court finds that community control is appropriate and it is not prohibited from imposing community control, *then* the court shall impose community control sanctions. The statute does not attempt to control the trial court’s discretion in sentencing a defendant or require that the court impose community control sanctions on any defendant.

{¶ 14} In sum, Mauder has not shown that his sentence is clearly and convincingly contrary to law. Therefore, his assignment of error is not well-taken.

III. Conclusion

{¶ 15} Based on the foregoing, the December 23, 2025 judgment of the Lucas County Court of Common Pleas is affirmed. Mauder is ordered to pay the costs of this appeal under App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.
See also 6th Dist.Loc.App.R. 4.

Christine E. Mayle, J.

JUDGE

Gene A. Zmuda, J.

JUDGE

Charles E. Sulek, J.

CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.supremecourt.ohio.gov/ROD/docs/>.