

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-150482
	:	TRIAL NO. B-1307099
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
SAMUEL ONYENWEAKU,	:	
	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Following a bench trial, defendant-appellant Samuel Onyenweaku was convicted of rape, felonious assault and patient abuse. The trial court imposed the maximum sentence for each offense and ordered the sentences to be served concurrently, for a total prison term of 11 years. On appeal, we affirmed the trial court’s finding of guilt for each offense but held that the offenses of rape and felonious assault were allied offenses. We vacated the sentences and remanded the matter for “sentencing in accordance with the state’s election.” *See State v. Onyenweaku*, 1st Dist. Hamilton No. C-140471 (May 1, 2015).

At the resentencing hearing, the state elected to proceed on the rape charge. The trial court merged the rape and felonious-assault offenses, imposed the

maximum sentence for rape and patient abuse and ordered that the sentences be served concurrently for a total prison term of 11 years. Onyenweaku now appeals.

In his single assignment of error, Onyenweaku argues that his sentence is contrary to law. Specifically, he argues that the trial court erred by imposing the maximum sentence because he was a first-time felony offender and because he had successfully participated in several prison programs during the past year. And he also contends that the trial court did not consider the sentencing guidelines when imposing his sentence.

Under R.C. 2953.08(G)(2), a reviewing court may modify or vacate a sentence if it “clearly and convincingly finds that the record does not support the mandatory sentencing findings, if any, or that the sentence is otherwise contrary to law.” *State v. White*, 2013-Ohio-4225, 997 N.E.2d 629, ¶ 11 (1st Dist.). With respect to the length of a prison term, although a trial court must consider the overriding principles and purposes of felony sentencing in R.C. 2929.11 and 2929.12, it is not required to state specific findings on the record, and we can presume that a court considered the factors, absent an affirmative demonstration in the record showing otherwise. *State v. Hamberg*, 2015-Ohio-5074, 53 N.E.3d 918, ¶ 17 (1st Dist.), citing *State v. Alexander*, 1st Dist. Hamilton Nos. C-110828 and C-110829, 2012-Ohio-3349, ¶ 24.

After reviewing the record, we hold that Onyenweaku’s sentences are not contrary to law. He has not demonstrated that the trial court failed to consider the purposes and principles of sentencing. The trial court noted at the sentencing hearing that it “certainly remember[ed] the facts in regards to this particular matter [and] believed that the original sentence is still the appropriate sentence.” Given that the sentencing court was the same court that had heard the evidence during the bench trial, it knew that Onyenweaku had chosen a victim that was frail, elderly and

could barely communicate, and that Onyenweaku's relationship with the victim had facilitated the offense (he was the nurse's aide at the nursing home where the victim lived). The court also knew that Onyenweaku had shown no remorse. Further, while the trial court has the discretion to consider any other relevant factor in sentencing a defendant, a trial court is not required to consider a defendant's good behavior and accomplishments in prison subsequent to a prior sentencing hearing. *See State v. Hudak*, 8th Dist. Cuyahoga No. 82108, 2003-Ohio-3805.

Accordingly, the single assignment of error is overruled, and the judgment of the trial court is affirmed.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

MOCK, P.J., ZAYAS and DETERS, JJ.

To the clerk:

Enter upon the journal of the court on June 16, 2017

per order of the court _____.
Presiding Judge