

COURT OF APPEALS OF OHIO, ELEVENTH APPELLATE DISTRICT, LAKE COUNTY

State v. Welk

2026-Ohio-231 · No. 2025-L-089 · Decided January 27, 2026

SUMMARY

The Ohio Eleventh District Court of Appeals affirmed Dennis V. Welk Jr.'s conviction and consecutive 60-month prison sentences for two counts of sexual battery. The court held that the trial court properly made the required consecutive-sentencing findings, considered the relevant statutory sentencing factors, and acted within its discretion in imposing maximum sentences.

CASE DETAILS

COURT	Court of Appeals of Ohio, Eleventh Appellate District, Lake County
WRITING FOR THE COURT	Scott Lynch, J.; Matt Lynch, P.J.; John J. Eklund, J.
JURISDICTION	Ohio Court of Appeals, Eleventh Appellate District, Lake County
DECIDED	January 27, 2026
DOCKET	2025-L-089
DISPOSITION	affirmed
PROCEDURAL POSTURE	Welk pleaded guilty to two counts of third-degree-felony sexual battery and appealed the Lake County Court of Common Pleas judgment imposing consecutive 60-month prison terms.
STANDARD OF REVIEW	Under R.C. 2953.08(G)(2), an appellate court reviews the record and may modify or vacate a felony sentence only if it clearly and convincingly finds that the record does not support the trial court's required findings or that the sentence is otherwise contrary to law. The appellate court may not independently weigh the evidence or substitute its judgment for the trial court's weighing of R.C. 2929.12 factors.
PRECEDENTIAL VALUE	published
PARTIES	Dennis V. Welk, Jr. v. State of Ohio

TOPICS

- sentencing
- sentencing guidelines
- appellate procedure
- standard of review
- criminal procedure

PRACTICE AREAS

criminal law

felony sentencing

criminal appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court made the findings required by R.C. 2929.14(C)(4) to impose consecutive sentences.
2. Whether the trial court failed to consider the relevant seriousness and recidivism factors under R.C. 2929.12 by not giving sufficient mitigating weight to Welk's remorse.
3. Whether the trial court's imposition of maximum sentences was contrary to law or unsupported by the record.

HOLDINGS

1. The trial court properly imposed consecutive sentences because it stated each finding required by R.C. 2929.14(C)(4) on the record and incorporated those findings into the sentencing entry.
2. The trial court fulfilled its obligation under R.C. 2929.12 by stating that it considered the statutory factors; it was not required to assign particular weight to Welk's remorse or expressly discuss every individual factor.
3. An appellate court may not independently weigh the evidence or substitute its judgment for the trial court's judgment concerning the sentence that best complies with R.C. 2929.12.
4. The trial court had full discretion to impose maximum sentences within the statutory range after considering the appropriate sentencing factors, and Welk's 60-month sentences were within the range authorized for third-degree felonies.

KEY QUOTATIONS

“Nothing in R.C. 2953.08(G)(2) permits an appellate court to independently weigh the evidence in the record and substitute its judgment for that of the trial court concerning the sentence that best reflects compliance with” (§13)

“provided that the trial court considers the appropriate factors, it has “full discretion to impose a sentence within the statutory range.”” (§14)

FACTUAL BACKGROUND

Welk pleaded guilty to two counts of third-degree-felony sexual battery arising from the sexual assault of his 13-year-old stepdaughter. At sentencing, he attributed the conduct in part to intoxication and expressed remorse, while the State emphasized that other children were present and that Welk contacted the victim from jail to pressure her to seek a shorter sentence. The trial court also considered Welk's extensive criminal record, including prior burglary, prison, and theft offenses, and imposed consecutive 60-month prison terms.

PROCEDURAL HISTORY

A Lake County grand jury indicted Welk on multiple sexual-offense charges. He later pleaded guilty to two counts of sexual battery. The trial court imposed consecutive 60-month sentences, and Welk appealed, arguing that the record did not support maximum consecutive sentences. The Eleventh District affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Marcum, 2016-Ohio-1002, ¶ 1
- State v. Elliott, 2023-Ohio-412, ¶ 9 (11th Dist.)
- State v. Miller, 2025-Ohio-339, ¶ 21 (11th Dist.)
- State v. DelManzo, 2008-Ohio-5856, ¶ 23 (11th Dist.)
- State v. Dawson, 2016-Ohio-2800, ¶ 15 (11th Dist.)
- State v. Davy, 2024-Ohio-5550, ¶ 21 (11th Dist.)
- State v. Jones, State v. Jones, 2020-Ohio-6729, ¶ 42
- State v. Freshwater, 2023-Ohio-1248, ¶ 10 (11th Dist.)
- State v. Foti, 2020-Ohio-439, ¶ 73 (11th Dist.)

OPINION

PER CURIAM.

[Cite as State v. Welk, 2026-Ohio-231.] IN THE COURT OF APPEALS OF OHIO ELEVENTH APPELLATE DISTRICT LAKE COUNTY STATE OF OHIO, CASE NO. 2025-L-089 Plaintiff-Appellee, Criminal Appeal from the - vs - Court of Common Pleas DENNIS V. WELK, JR., Trial Court No. 2025 CR 000206 Defendant-Appellant. OPINION AND JUDGMENT ENTRY Decided: January 27, 2026 Judgment: Affirmed Charles E. Coulson, Lake County Prosecutor, and Teri R. Daniel, Assistant Prosecutor, Lake County Administration Building, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Plaintiff-Appellee). Adam Parker, Goldberg Dowell & Associates, L.L.C., 323 West Lakeside Avenue, Suite 450, Cleveland, OH 44113 (For Defendant-Appellant). SCOTT LYNCH, J. {¶1} Defendant-appellant, Dennis V. Welk, Jr., appeals from the judgment of the Lake County Court of Common Pleas, sentencing him to consecutive prison terms of 60 months for two counts of Sexual Battery.

For the following reasons, we affirm the judgment of the lower court. {¶2} On March 31, 2025, the Lake County Grand Jury indicted Welk for Sexual Imposition, a misdemeanor of the third degree, in violation of R.C. 2907.06(A); Importuning, a felony of the fifth degree, in violation of R.C. 2907.07(B)(1); two counts of Unlawful Sexual Conduct with a Minor, felonies of the third degree, in violation of R.C.

2907.04(A); two counts of Sexual Battery, felonies of the third degree, in violation of R.C. 2907.03(A)(5); and Rape, a felony of the first degree, in violation of R.C. 2907.02(A)(2). {¶3} The court held a change of plea hearing on May 14, 2025. Welk entered guilty pleas to two counts of Sexual Battery as charged in the indictment.

The charges related to the sexual assault of his 13-year-old stepdaughter. {¶4} At the sentencing hearing, defense counsel indicated that Welk was intoxicated when he committed the offenses and he had expressed remorse for hurting the victim and his family. Welk stated that alcohol was “a main factor” but that he took full responsibility for his actions and would take advantage of programs offered while incarcerated.

The prosecutor indicated that other children were present when the offenses were committed. She further observed that Welk continued to communicate with the victim while in jail, pressuring her to request that he should receive a short sentence, causing her “ongoing emotional harm.” The State recommended a jointly agreed sentence of eight years in prison. {¶5} The court stated: “[C]ontacting [the victim]... is totally inappropriate and was further evidence of you trying to take advantage of her at that young age like you did.” It also noted that the presentence investigation report indicated that Welk expressed a belief that he did not commit all of the acts for which he was charged.

The court reviewed Welk’s criminal record, which included felony offenses for burglary, multiple prison terms, and theft offenses, finding he had “a lifetime of criminal activity.” The court sentenced Welk to serve consecutive 60-month prison terms for each offense. {¶6} Welk timely appeals and raises the following assignment of error: {¶7} “The record clearly and convincingly does not support the trial court’s decision to impose maximum consecutive sentences.” PAGE 2 OF 6 Case No. 2025-L-089 Review of Felony Sentences {¶8} Welk raises issues relating to the court’s imposition of 60-month sentences for each count of Sexual Battery. “The court hearing an appeal [of a felony sentence] shall review the record, including the findings underlying the sentence... given by the sentencing court.” R.C.

2953.08(G)(2). “The 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... if it clearly and convincingly finds... [t]hat the record does not support the sentencing court’s findings under division... (C)(4) of section 2929.14... [or] [t]hat the sentence is otherwise contrary to law.” Id.; State v. Marcum, 2016-Ohio-1002, ¶ 1. {¶9} As an initial matter, although the assigned error contends that the record does not support the imposition of “maximum consecutive sentences,” Welk presents no argument relating specifically to the consecutive nature of the sentences.

R.C. 2929.14(C)(4) requires that the trial court, in issuing consecutive sentences, make specific findings relating to the danger posed to the public, the seriousness of the offenses, and protection

of the public from the commission of future crime.

The court stated each of the required findings on the record and incorporated them into its sentencing entry, so we find no error in this regard. *State v. Elliott*, 2023-Ohio-412, ¶ 9 (11th Dist.) (“the court ‘is required to make [R.C. 2929.14(C)(4)] finding[s]... at the sentencing hearing and incorporate its findings into its sentencing entry’”) (citation omitted).

Consideration of R.C. 2929.12 Sentencing Factors {¶10} Welk contends that “the trial court failed to consider all the relevant sentencing factors under R.C. 2929.12,” emphasizing its focus on his comments that he PAGE 3 OF 6 Case No. 2025-L-089 did not remember the conduct underlying the offenses rather than his statements of remorse. He contends that his genuine expression of remorse “should have carried at least some mitigating weight, and favored a less-than maximum sentence.” {¶11} R.C.

2929.12(A) provides the sentencing court with discretion to “determine the most effective way to comply with the purposes and principles of sentencing.” In exercising its discretion, the court shall consider R.C. 2929.12 factors “relating to the seriousness of the conduct [and]... the likelihood of the offender’s recidivism.” *Id.* The trial court “fulfills its duties under...

R.C. 2929.12 by stating that it considered” it and is “not required to give any particular weight or emphasis to a given set of circumstances.” *State v. Miller*, 2025-Ohio-339, ¶ 21 (11th Dist.); *State v. DelManzo*, 2008-Ohio-5856, ¶ 23 (11th Dist.). Further, “[a]bsent evidence to the contrary, a reviewing court will presume the trial court considered all appropriate sentencing factors.” *State v. Dawson*, 2016- Ohio-2800, ¶ 15 (11th Dist.). {¶12} The court stated at the sentencing hearing it considered “all the provisions in...

R.C. 2929.12” and in its sentencing entry that it “has balanced the seriousness and recidivism factors under R.C. 2929.12.” “[W]e will not presume the trial court failed to weigh certain factors merely because the trial court did not explicitly discuss each discrete factor.” *State v. Davy*, 2024-Ohio-5550, ¶ 21 (11th Dist.).

The court expressed concern over Welk’s criminal record, statements questioning whether he committed the criminal conduct contained in the PSI, and his communication with the victim while in jail. Regardless of Welk’s expression of remorse, it was entitled to determine these recidivism factors warranted its sentence. {¶13} We emphasize that this court cannot review the trial court’s weighing of these factors on appeal.

Pursuant to the Ohio Supreme Court’s holding in *State v. Jones*, PAGE 4 OF 6 Case No. 2025-L-089 2020-Ohio-6729, “[n]othing in R.C. 2953.08(G)(2) permits an appellate court to independently weigh the evidence in the record and substitute its judgment for that of the trial court concerning the sentence that best reflects compliance with” R.C. 2929.12. *Id.* at ¶ 42; *State v.*

Freshwater, 2023-Ohio-1248, ¶ 10 (11th Dist.) (“we are precluded from reviewing whether [the] sentence is supported by the record under R.C.

2929.12”). The weight to be given to Welk’s expression of remorse in light of the other facts in the record was for the trial court to decide. We find no error in the application of R.C. 2929.12. {¶14} Finally, to the extent that Welk takes issue with the fact that he received maximum sentences, provided that the trial court considers the appropriate factors, it has “full discretion to impose a sentence within the statutory range.” State v. Foti, 2020-Ohio- 439, ¶ 73 (11th Dist.).

Welk’s sentences were within the range for third-degree felonies in violation of R.C. 2907.03, which carry a sentence of up to 60 months. R.C. 2929.14(A)(3)(a). {¶15} The sole assignment of error is without merit. {¶16} For the foregoing reasons, the judgment of the Lake County Court of Common Pleas, sentencing Welk to a total prison term of ten years, is affirmed.

Costs to be taxed against appellant. MATT LYNCH, P.J., JOHN J. EKLUND, J., concur. PAGE 5 OF 6 Case No. 2025-L-089 JUDGMENT ENTRY For the reasons stated in the Opinion of this court, the assignment of error is without merit.

The order of this court is that the judgment of the Lake County Court of Common Pleas is affirmed. Costs to be taxed against appellant. JUDGE SCOTT LYNCH PRESIDING JUDGE MATT LYNCH, concurs JUDGE JOHN J. EKLUND, concurs THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.

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