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SLIP OPINION NO. 2026-OHIO-4232

THE STATE OF OHIO, APPELLANT, *v.* HOLLIMAN, APPELLEE.

[Until this opinion appears in the Ohio Official Reports advance sheets, it may be cited as *State v. Holliman*, Slip Opinion No. 2026-Ohio-4232.]

Criminal law—Sentencing—Firearm specifications—When an offender is convicted of multiple firearm specifications for a single felony offense, under R.C. 2929.14(B)(1)(a), trial court selects one specification for which to impose a sentence—Trial court properly exercised its discretion when imposing one-year firearm specification provided for by R.C. 2929.141(A) instead of three-year firearm specification provided for by R.C. 2929.145(A)—Court of appeals' judgment affirmed.

(No. 2025-0670—Submitted April 14, 2026—Decided October 29, 2026.)

APPEAL from the Court of Appeals for Cuyahoga County,
No. 114280, 2025-Ohio-1187.

DEWINE, J., authored the opinion of the court, which KENNEDY, C.J., and FISCHER, BRUNNER, DETERS, HAWKINS, and SHANAHAN, JJ., joined.

DEWINE, J.

{¶ 1} An offender who possesses or uses a firearm while committing a felony may be found guilty of both the underlying crime and one or more firearm specifications. A "specification" acts as a penalty enhancement, adding a mandatory prison term on top of the sentence for the underlying felony. The length of the added term varies depending on the offender's specific conduct with the firearm. Importantly, however, Ohio law dictates that if an offender is convicted of more than one firearm specification for a single felony offense, the trial court must sentence him for only one. *See* R.C. 2929.14(B)(1)(a); R.C. 2941.141(B); R.C. 2941.144(B); R.C. 2941.145(B).

{¶ 2} In this case, the offender was found guilty of a firearm specification that provided for an enhanced prison term of one year and another firearm specification that provided for an enhanced prison term of three years. The trial court opted to impose the one-year specification. The State protests that it—not the trial court—should have been the one to select which specification to impose. We don't see it that way. R.C. 2929.14(B)(1)(a) says that when an offender is convicted of one or more specifications for a single felony offense, "the court shall impose on the offender one" of the applicable specifications. We take this language to mean what it seems to say. It is the trial court that "imposes" the firearm specification, and therefore, it is the court that has the discretion to select which specification to impose. The Eighth District Court of Appeals reached the same conclusion, so we affirm its judgment.

I. One Offense, Two Firearm Specifications

{¶ 3} Harry Holliman Jr. confronted a former friend outside the friend's home. During the argument, Holliman became angry and fired three shots from his revolver, two into the air and one into the house.

{¶ 4} For this conduct, a jury found Holliman guilty of discharging a firearm on or near prohibited premises in violation of R.C. 2923.162(A)(3), a third-degree felony. In addition, the jury found Holliman guilty of two firearm specifications: one carrying a one-year mandatory prison term for possessing a firearm during the commission of the offense under R.C. 2941.141(A), and another carrying a three-year mandatory prison term for using a firearm to facilitate the offense under R.C. 2941.145(A).

{¶ 5} Because a court may impose only one firearm specification for a single felony offense, *see* R.C. 2929.14(B)(1)(a), the parties addressed which specification should apply at Holliman's sentencing hearing. Noting that nothing in statute required the imposition of the longer specification, defense counsel asked the court to impose the one-year specification. The State countered that it was entitled to choose which specification the court would impose and insisted the court impose the three-year specification. After continuing the hearing to allow for supplemental briefing on the issue, the court adopted the defense's view that the court had the discretion to choose which specification to impose. The court opted for the one-year specification and sentenced Holliman to nine months in prison plus the one-year mandatory term.

{¶ 6} The State appealed to the Eighth District, again arguing that it should have been allowed to pick the firearm specification for which a sentence would be imposed. The Eighth District disagreed, reasoning that nothing in the statutory language limited the trial court's discretion to choose the specification for which to impose a sentence. *See* 2025-Ohio-1187, ¶ 9 (8th Dist.).

{¶ 7} We accepted the State's appeal on a single proposition of law asserting that when an offender is convicted of multiple firearm specifications for a single offense, the specifications merge and the State may choose which one to pursue at sentencing. *See* 2025-Ohio-2749.

II. The Statutory Scheme Affords the Trial Court the Discretion to Select the Specification to Impose

{¶ 8} We start with some background on the statutory scheme. A firearm specification is a sentence-enhancing provision that imposes an increased penalty upon certain findings by the trier of fact. *State v. Ford*, 2011-Ohio-765, ¶ 16. When a felony offense involves a firearm, the State may charge an offender with a variety of firearm specifications alongside the underlying offense. *See* R.C. 2941.141; R.C. 2941.144; R.C. 2941.145. Relevant here, R.C. 2941.141(A) authorizes the imposition of a one-year mandatory prison term when the offender has a firearm "on or about the offender's person or under the offender's control" during the commission of the offense. And R.C. 2941.145(A) authorizes the imposition of a three-year mandatory prison term when the offender displays, brandishes, or uses the firearm to facilitate the underlying offense. To be convicted of a firearm specification, a jury must find that the State proved the specification beyond a reasonable doubt. *See State v. Murphy*, 49 Ohio St.3d 206, 208 (1990). The prison term that is imposed for the specification is in addition to the prison term for the underlying offense. *See State v. Logan*, 2025-Ohio-1772, ¶ 2; *State v. Moore*, 2018-Ohio-3237, ¶ 8.

{¶ 9} An offender may be found guilty of more than one firearm specification for a single felony offense. That is what happened here: the State chose to charge Holliman with both possessing a firearm while committing the felony offense under R.C. 2941.141(A) and using the firearm to facilitate the offense under R.C. 2941.145(A), and the jury found Holliman guilty of both specifications.

{¶ 10} But even though an offender may be found guilty of multiple firearm specifications for a single felony offense, he may be sentenced for only one specification. The statutory language makes this doubly clear. First, R.C. 2929.14(B)(1)(a) states that if an offender is found guilty of a felony and a firearm

specification, the court "shall impose on the offender *one*" of the prison terms prescribed for an applicable firearm specification. (Emphasis added.) Second, each of the applicable firearm specification provisions states that imposition of a prison term for that specification is precluded if the court imposes a prison term for another specification. *See* R.C. 2941.141(B); R.C. 2941.144(B); R.C. 2941.145(B). For example, R.C. 2941.145(B) states that "[i]mposition of a three-year mandatory prison term upon an offender . . . is precluded if a court imposes a one-year, eighteen-month, six-year, fifty-four-month, or nine-year mandatory prison term on the offender [for another firearm specification] relative to the same felony."

A. Under the Plain Text of the Statute, the Trial Court Selects Which Specification to Impose

{¶ 11} While the statutory scheme allows only the imposition of a single specification, the question in this case is who gets to say which one: the trial court or the prosecution? The answer is provided by the statutory text.

{¶ 12} R.C. 2929.14(B)(1)(a) states that "if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a specification of the type described in section 2941.141, 2941.144, or 2941.145 of the Revised Code, *the court shall impose* on the offender one of the" prison terms that applies to a firearm specification for which the offender has been found guilty. (Emphasis added.)

{¶ 13} The language "the court shall impose" strongly suggests that it is the court that has the discretion to decide which specification to impose. The authority to impose a sentence for a specification is granted solely to the trial court. Nothing in the statutory language imposes any limits on the trial court's authority to choose among different specifications. And nothing in the statutory language provides any role for the State in selecting the specification for which the trial court will impose a sentence.

{¶ 14} One might think that where an offender is convicted of multiple specifications, it would be appropriate to impose a sentence for the most serious specification. After all, if an offender is convicted of two specifications—one more serious than the other—an argument could be made that the legislature expected the offender to be sentenced for the specification that recognizes the full extent of the criminal conduct. But the statutory language precludes such a reading. The relevant statutes make clear that the legislature specifically envisioned that a trial court could impose a sentence for a specification that carried a lesser sanction instead of imposing a sentence for the most serious specification. R.C. 2941.145(B), for example, states that "[i]mposition of a three-year mandatory prison term upon an offender . . . is precluded if a court imposes a one-year . . . mandatory prison term on the offender . . . relative to the same felony."

{¶ 15} Our reading of R.C. 2929.14(B)(1)(a) as allowing the trial court to select the specification for which to impose a sentence is consistent with the trial court's traditional role in criminal sentencing. Although the legislature prescribes the availability and range of criminal sanctions for a specific offense, trial courts maintain "full discretion to impose a prison sentence within the statutory range," *State v. Foster*, 2006-Ohio-856, ¶ 100, *abrogated on other grounds by Oregon v. Ice*, 555 U.S. 160 (2009).

{¶ 16} The State's approach would in essence require us to add a codicil to the statute that is not found in its text. While the statutory language is explicit that it is the trial judge who "shall impose" the prison term for a firearm specification, the State would have us find that this statutory directive is subject to an unwritten requirement that, in imposing the prison term for the specification, the judge must defer to the State's recommendation as to which specification for which a sentence will be imposed. But when the legislature circumscribes the discretion that ordinarily would be afforded to a trial judge, we expect that it will do so explicitly.

See, e.g., R.C. 2909.15(D)(2)(b) (permitting a trial judge to limit the lifetime registration duty of an arson offender *only if* there is a request by the prosecutor).

{¶ 17} Against the backdrop of judicial discretion in sentencing decisions, we have little difficulty concluding that a statute that authorizes a judge to impose a sentence for a specification—and that does not otherwise limit the judge's discretion—allows the judge to select the specification for which to impose a sentence.

B. The State's Contrary Arguments Are Unpersuasive

{¶ 18} The State does not point to anything in the statutory text to support its argument that it has the authority to select the specification for which the judge imposes a sentence. Instead, it attempts to analogize specifications to allied offenses.

{¶ 19} When an offender engages in conduct that constitutes two allied offenses of similar import, he may be tried for both but convicted and sentenced for only one. R.C. 2941.25(A); *Maumee v. Geiger*, 45 Ohio St.2d 238, 244 (1976). We have held that in such a situation, the prosecution is required to elect which offense it will pursue after a finding of guilt but prior to sentencing. *State v. Harris*, 2009-Ohio-3323, ¶ 23. The State would like us to adopt a similar procedure for firearm specifications.

{¶ 20} We decline to do so. The allied-offense statute—R.C. 2941.25(A)—does not contain any language about who selects the charge for which the offender will be sentenced. In contrast, the firearm-specification statute—R.C. 2929.14(B)(1)(a)—states that the trial court is the one who imposes the firearm specification.

{¶ 21} Further, specifications are different from allied offenses. Allied offenses are criminal offenses. R.C. 2941.25(A). Firearm specifications are not criminal offenses; rather, they serve as penalty enhancements for criminal offenses. *Ford*, 2011-Ohio-765, at paragraph one of syllabus. And as we have already

explained, choosing an appropriate penalty among a range of sanctions prescribed by the General Assembly has long been understood as a judicial function. *See State v. Daniel*, 2023-Ohio-4035, ¶ 16 ("With respect to criminal sentencing, the judicial power is the power to impose a sentence authorized by law.").

{¶ 22} At the end of the day, the State would like us to add to R.C. 2941.25(A) a requirement that a sentencing judge defer to the State's recommendation about which firearm specification for which to impose a sentence. But "[t]his court expects a statutory requirement to be 'written . . . into the statute.'" (Ellipsis added in *TWISM Ents.*) *TWISM Ents., L.L.C. v. State Bd. of Registration for Professional Engineers & Surveyors*, 2022-Ohio-4677, ¶ 62, quoting *Wheeling Steel Corp. v. Porterfield*, 24 Ohio St.2d 24, 27-28 (1970). Because nothing in the statutory text supports the State's request, we cannot grant it.

III. Conclusion

{¶ 23} R.C. 2929.14(B)(1)(a) dictates that it is the trial court, not the State, that imposes the sentence for a firearm specification on the offender. When a jury has found an offender guilty of multiple firearm specifications for a single felony offense, the trial court selects the specification for which to impose a sentence. The trial court in this case properly exercised its discretion when it imposed the one-year firearm specification provided for by R.C. 2929.141(A). We therefore affirm the judgment of the Eighth District Court of Appeals.

Judgment affirmed.

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Chauncey Keller, Anthony T. Miranda, and Michael R. Wajda, Assistant Prosecuting Attorneys, for appellant.

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