

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

State of Ohio,	:	
Plaintiff-Appellee,	:	
v.	:	No. 25AP-983 (C.P.C. No. 25CR-5223)
Timothy A. Banks,	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on October 13, 2026

On brief: *Shayla D. Favor*, Prosecuting Attorney, and *Darren M. Burgess*, for appellee.

On brief: *Bellinger & Donahue*, and *Kerry M. Donahue*, for appellant.

APPEAL from the Franklin County Court of Common Pleas

BOGGS, P.J.

{¶ 1} Defendant-appellant, Timothy A. Banks, appeals the judgment of the Franklin County Court of Common Pleas, rendered after he entered an *Alford* plea, *see N. Carolina v. Alford*, 400 U.S. 25 (1970), to one count of menacing by stalking and one count of violating a protection order. For the following reasons, we affirm the trial court’s judgment.

I. PROCEDURAL HISTORY AND FACTS

{¶ 2} On October 1, 2025, Banks was indicted for one count of menacing by stalking in violation of R.C. 2903.211(A)(1) and three counts of violating a protection order in violation of R.C. 2919.27(A)(1).

{¶ 3} On October 16, 2025, the trial court held a hearing on a motion to modify Banks’s bond. Banks requested to reduce his bond or to be placed on house arrest. The

trial court denied the motion, citing Banks's extensive criminal history, prior failures to appear in court and to follow the rules of his probation, as well as a history of resisting arrest and violating protection orders.

{¶ 4} On November 19, 2025, the trial court held a hearing on a change of plea. During the hearing, the state discussed a plea offer where, if Banks pled guilty to two counts of the indictment, he would be placed on community control and released from prison. After some discussion whether Banks would be accepting the plea deal from the state, the trial court judge stated:

The Court: . . . So do you want to enter into this plea agreement today and be done with this case?

[Banks]: Yes. I want to get out today. I lost so many appointments. I'm not guilty or nothing.

(Nov. 19, 2025 Tr. at 11.)

{¶ 5} The state also informed the trial court that the parties had discussed the possibility of Banks entering an *Alford* plea. After a short pause in the proceedings to allow Banks to confer with his counsel, the court resumed the hearing. The court stated:

Before we move forward, we had quite an extensive discussion both on the record with Mr. Banks and off the record with Mr. Banks. At some point, maybe about 10 minutes ago or so, Mr. Banks went to sit in his chair and the chair sort of wasn't there and he took a fall onto the ground here. Again, having him try to sit in the chair, the chair rolled away from him and he went to the ground.

Before we move forward, I just want to make sure that Mr. Banks is completely healthy and feeling good about his health moving forward today and with entering into this plea arrangement today.

Id. at 16.

{¶ 6} Banks's counsel stated that Banks wanted to move forward that day despite being in some pain. The court directly questioned Banks, making sure he did not hit his head. The court asked:

The Court: . . . Let me ask you something. Do you feel . . . physically and mentally comfortable moving forward with this plea today?

[Banks]: Yes, sir.

The Court: And do you understand that I would be happy to give you some time, be it come back tomorrow or come back next week? You can rest up or do what you need to do. I would be happy to give you that only if you wanted it. Do you want that, or do you want to move forward?

[Banks]: No, sir. I want to move forward while I'm here.

...

The Court: Okay. I just wanted to make sure you're okay, Mr. Banks.

[Banks]: Yes, sir.

Id. at 18.

{¶ 7} The trial court then engaged in a Crim.R. 11 colloquy with Banks for an *Alford* plea of guilty to two charges, one count of menacing by stalking and one count of violation of a protection order. The trial court also advised Banks of the nature of an *Alford* plea, the maximum prison terms of the two counts he was pleading guilty to, including community-control measures and post-release control. The trial court further confirmed that Banks understood his constitutional rights, such as the right to a trial by jury, the right to counsel, and the right to appeal a possible conviction.

The Court: Finally, after everything you and I have just talked about, do you still want to change your plea to guilty pursuant to the *Alford* case in this case today?

[Banks]: Yes, sir.

The Court: All right. Are you doing that knowingly, voluntarily and intelligently? All three?

[Banks]: Yes, sir.

Id. at 34.

{¶ 8} Counsel for Banks also confirmed that she believed Banks was knowingly, voluntarily, and intelligently waiving his constitutional rights with a complete understanding of the potential consequences of the *Alford* plea.

{¶ 9} For purposes of the *Alford* plea, the state entered the following facts into the record: that Banks began a relationship with the victim in 2022. In July 2022, Banks and the victim were in an argument when Banks became angry and yelled at her. The victim called 911, and Banks was ultimately arrested for domestic violence, aggravated menacing, and domestic violence threats. Banks was placed under a temporary protection order to stay out of contact with the victim. Nevertheless, Banks made several attempts to contact the victim, and he had spoken with her outside the courthouse in violation of the order. Banks also purportedly went to the victim's workplace and attempted to obtain some of his belongings.

{¶ 10} Banks pled guilty to menacing by stalking and violating a protection order, which the court accepted. The trial court sentenced Banks to 18 months for the menacing by stalking count and 36 months for violation of a protection order, to be served consecutively for a total of 54 months in the custody of the Ohio Department of Rehabilitation and Correction. The trial court suspended his prison term for 5 years of community control with 60 days of GPS monitoring and 85 days of jail-time credit. Banks now appeals.

II. ASSIGNMENTS OF ERROR

{¶ 11} On appeal, Banks argues the following assignments of error.

I. THE PLEA WAS NOT KNOWINGLY AND VOLUNTRILY ENTERED INTO BY DEFENDANT-APPELLANT IN VIOLATION OF HIS CONSTITUTIONAL RIGHTS.

a. IT WAS ERROR OF THE COURT TO IMPOSE CONSECUTIVE SENTENCES.

II. APPELLANT BELIEVES THE JUDGE WAS UNFAIR TO HIM AND IT IS REQUESTED THAT A NEW JUDGE BE ASSIGNED TO HIS CASE.

III. DISCUSSION

{¶ 12} In Banks's first assignment of error, he argues that he did not knowingly and voluntarily enter his pleas. Banks states in his brief that he "maintained his innocence, suffered an accident in the court room that affected his sound mind, and he felt he had to plead because he wanted out of jail. A plea made under such duress is not knowing and voluntary, Appellant being of unsound mind." (Appellant's Brief at 14.)

{¶ 13} Crim.R. 11(C) requires a trial court to inform a felony defendant of certain constitutional and non-constitutional rights before it may accept a plea. The trial court must engage in a Crim.R. 11(C) colloquy with a defendant to ensure that the defendant's plea is knowing, voluntary, and intelligent. *State v. Clark*, 2008-Ohio-3748, ¶ 25-26. Pursuant to Crim.R. 11(C)(2)(c), the trial court must notify the defendant of his constitutional rights against self-incrimination, to a jury trial, to confront one's accusers, to compel witnesses to testify by compulsory process, and to have the state prove guilt beyond a reasonable doubt. *State v. Veney*, 2008-Ohio-5200, ¶ 19-21.

{¶ 14} When a defendant enters an *Alford* plea, the trial court has a "heightened duty" to ensure the defendant's rights are protected and that the defendant is making a rational decision in entering the plea. (Internal quotation marks deleted.) *State v. Fetherolf*, 2019-Ohio-4176, ¶ 9 (10th Dist.), quoting *State v. Carey*, 2011-Ohio-1998, ¶ 7 (3d Dist.). An *Alford* plea allows a trial court to accept a guilty plea linked to a claim of innocence, provided the "defendant intelligently concludes that his interests require entry of a guilty plea and the record before the judge contains strong evidence of actual guilt." *Alford*, 400 U.S. at 37. While an *Alford* plea allows a defendant to maintain his factual innocence, the plea has the same legal effect as a plea of guilty. *Fetherolf* at ¶ 9, citing *Carey* at ¶ 6. In accepting an *Alford* plea, the trial court need not directly inquire whether the defendant has made a rational calculation to plead guilty; instead, the trial court may accept the *Alford* plea so long as there is sufficient information before the trial court to determine the defendant's decision to plead guilty notwithstanding his assertion of actual innocence was a rational decision. *Fetherolf* at ¶ 10, citing *State v. Lacumsky*, 2009-Ohio-3214, ¶ 9 (6th Dist.), and *State v. Kirigiti*, 2007-Ohio-6852, ¶ 15 (10th Dist.).

{¶ 15} We note that Banks does not argue that his Crim.R. 11 plea colloquy was deficient in any way. As for his claims of duress, we are unpersuaded. As noted above, the trial court offered Banks several opportunities to pause the proceedings, which he declined. The trial court checked with Banks and his counsel to make sure he was okay, and Banks remained adamant that he wanted to proceed with the *Alford* plea, before and after his fall. Further, Banks's signed a guilty plea form stating that "no person has threatened me, promised me leniency, or in any other way coerced or induced me to plead 'Guilty' . . . my decision to plead 'Guilty,' . . . represents the free and voluntary exercise of my own will and

best judgment.” (Nov. 19, 2025 Entry of Guilty Plea at 3.) Banks’s counsel also signed the plea form, attesting that she believed that Banks “acts knowingly, voluntarily, and intelligently” in signing the plea. *Id.* We find no evidence in the record that Banks was under duress, made an irrational decision, or was not of sound mind. The record indicates that Banks was simply eager to be released from prison.

{¶ 16} Banks also argues that the trial court erred in imposing consecutive sentences. Specifically, Banks argues that there was no record of Banks’s criminal history nor was there a presentence investigation report to support the trial court’s findings justifying consecutive sentences. The state points out that Banks did not object to the imposition of consecutive sentences by the trial court and has waived all but plain error here.

{¶ 17} An appellate court will not reverse a trial court’s sentencing decision unless the evidence is clear and convincing that either the record does not support the sentence or that the sentence is contrary to law. *State v. Chandler*, 2005-Ohio-1961, ¶ 10 (10th Dist.), citing *State v. Maxwell*, 2004-Ohio-5660, ¶ 27 (10th Dist.), citing *State v. Comer*, 2003-Ohio-4165, ¶ 10. Pursuant to R.C. 2929.14(C)(4), the trial court may exercise its discretion to impose consecutive sentences for multiple prison terms. *State v. Guy*, 2018-Ohio-4836, ¶ 56 (10th Dist.), citing *State v. Sergeant*, 2016-Ohio-2696, ¶ 16. Before imposing consecutive sentences, a court must make certain findings. R.C. 2929.14(C) provides:

(4) If multiple prison terms are imposed on an offender for convictions of multiple offenses, the court may require the offender to serve the prison terms consecutively if the court finds that the consecutive service is necessary to protect the public from future crime or to punish the offender and that consecutive sentences are not disproportionate to the seriousness of the offender’s conduct and to the danger the offender poses to the public, and if the court also finds any of the following:

(a) The offender committed one or more of the multiple offenses while the offender was awaiting trial or sentencing, was under a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, or was under post-release control for a prior offense.

(b) At least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the multiple offenses so committed was so great or

unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the offender's conduct.

(c) The offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender.

In more succinct terms, a trial court is required to make at least three distinct findings in order to impose consecutive terms: (1) consecutive sentences are necessary to protect the public from future crime or to punish the offender; (2) consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public; and (3) one of the subsections (a), (b), or (c) applies. *State v. Price*, 2014-Ohio-4696, ¶ 31 (10th Dist.), citing *State v. Bonnell*, 2014-Ohio-3177.

{¶ 18} We also note that the Supreme Court of Ohio stated in *Bonnell*, at the syllabus, "In order to impose consecutive terms of imprisonment, a trial court is required to make the findings mandated by R.C. 2929.14(C)(4) at the sentencing hearing and incorporate its findings into its sentencing entry, but it has no obligation to state reasons to support its findings."

{¶ 19} Our review of the transcript clearly indicates that the trial court made the necessary findings before it imposed consecutive sentences. Banks argues that without a presentence investigation report, which he waived, there was no factual basis in the record to support the trial court's findings. However, as discussed above, the trial court noted Banks's previous criminal history at his bond hearing, and the state's statement of facts for the *Alford* plea included Banks's multiple contacts with the victim despite a protection order that prohibited such contact. We therefore overrule Banks's first assignment of error as well as his sub-assignment of error.

{¶ 20} Finally, in his last assignment of error, Banks argues, without any basis, that the trial judge was unfair and biased against him. Banks requests that a new judge be assigned to him. Banks does not cite to any factual support in the record or offer any legal support for his contention that the trial judge was biased against him. Rather, he simply states that "the lower Court treated him unfairly and cannot be fair to him in the future."

{¶ 21} We note that App.R. 12(A)(2) states, "The [appellate] court may disregard an assignment of error presented for review if the party raising it fails to identify in the record

the error on which the assignment of error is based or fails to argue the assignment separately in the brief, as required under App.R. 16(A).” As Banks has not identified any portion of the record on which his assignment of error is based and does not provide an argument in support thereof, we decline to address this assignment of error.

IV. CONCLUSION

{¶ 22} Having overruled Banks’s first assignment of error, overruled a sub assignment of error, and further declined to address his second assignment of error for failure to comply with appellate rules, we affirm the judgment of the Franklin County Court of Common Pleas.

Judgment affirmed.

MENTEL and JAMISON, JJ., concur.
