

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
TRUMBULL COUNTY**

STATE OF OHIO,

Plaintiff-Appellee,

- vs -

AMIYAH CLINKSCALE,

Defendant-Appellant.

CASE NO. 2026-T-0028

Criminal Appeal from the
Court of Common Pleas

Trial Court No. 2025 CR 00664

OPINION AND JUDGMENT ENTRY

Decided: October 13, 2026

Judgment: Affirmed in part, reversed in part, and remanded

Dennis Watkins, Trumbull County Prosecutor, and *Charles L. Morrow*, Assistant Prosecutor, Administration Building, Fourth Floor, 160 High Street, N.W., Warren, OH 44481 (For Plaintiff-Appellee).

Gabrielle M. Ploplis, 4043 Erie Street, Willoughby, OH 44094 (For Defendant-Appellant).

SCOTT LYNCH, J.

{¶1} Defendant-appellant, Amiyah Clinkscale, appeals her sentence for two counts of Felonious Assault. We find no error or prejudice in the trial court’s determination of Clinkscale’s sentence, although we must remand for the limited purpose of providing the required notifications for the imposition of a non-life felony indefinite prison term relative to the first Felonious Assault Count. In other respects, Clinkscale’s sentence is affirmed.

Substantive and Procedural History

{¶2} On September 17, 2025, the Trumbull County Grand Jury indicted

Clinkscale on two counts of Felonious Assault, felonies of the second degree in violation of R.C. 2903.11(A)(2) and (D)(1)(a).

{¶3} On February 5, 2026, Clinkscale pled guilty to two counts of Felonious Assault as charged in the Indictment. The State presented the following factual basis for the charges:

[O]n or about [July 14, 2025], in Trumbull County, State of Ohio, this Defendant dropped off her sister at a parking lot near the intersection of Kenilworth Drive and Woodbine Avenue in Warren City, Ohio. Her sister engaged in a fistfight with another woman. The Defendant circled around the block in her vehicle, and when she came upon the group of individuals in the fight she accelerated and aimed her vehicle at the individuals, hopped a curb and struck several bystanders in the parking lot, including the two victims in this matter, specifically a Miss Richardson and a Miss Pruitt.

To prove these allegations, the State would have brought forth the testimony of the victims in this case and officers with the Warren City Police Department.

{¶4} On March 12, 2026, the sentencing hearing was held. Clinkscale was sentenced to concurrent prison terms of three to four and one-half years for the first count of Felonious Assault and three years for the second count.

Assignments of Error

{¶5} On March 31, 2026, Clinkscale filed a Notice of Appeal. On appeal, she raises the following assignments of error:

[1.] The trial court erred by treating a dismissed out-of-state juvenile charge as part of her criminal record for purposes of felony sentencing.

[2.] The trial court erred when it imposed a Reagan Tokes indefinite prison term without advising Ms. Clinkscale at sentencing of all mandatory notifications.

[3.] The trial court's application of the Reagan Tokes Act was plain error and violative of appellant's constitutional rights under both the United States and Ohio Constitutions.

[4.] The trial court erred when it predetermined that appellant was going to receive prison time, and the presentence investigation report was only to determine how much prison time.

Standard of Review

{¶6} “The court hearing an appeal [of a felony sentence] shall review the record, including the findings underlying the sentence or modification 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 sentence is ... contrary to law.” R.C. 2953.08(G)(2)(b); *State v. Marcum*, 2016-Ohio-1002, ¶ 1.

{¶7} “[A] sentence is contrary to law when it does not fall within the statutory range for the offense or if the trial court fails to consider the purposes and principles of felony sentencing set forth in R.C. 2929.11 and the sentencing factors set forth in R.C. 2929.12.” (Citations omitted.) *State v. Lucas*, 2026-Ohio-230, ¶ 15 (11th Dist.).

First Assignment of Error: Consideration of Clinkscale's Juvenile Record

{¶8} In the first assignment of error, Clinkscale argues the trial court erred by treating charges brought against her as a juvenile, which were ultimately dismissed, as convictions for the purpose of felony sentencing. Clinkscale's claim arises from the following exchange during the sentencing hearing between the court and trial counsel, Attorney Weemhoff:

The Court: Anything else you would like to say?

Weemhoff: Your Honor, just that she has no record. That she's a low rate to --

The Court: That's not true, counsel. She does have a record.

Weemhoff: I said a limited record, Your Honor.

The Court: She has a conviction as a thirteen-year-old for Aggravated Battery, got dismissed out of Florida¹, and charges while this case was pending². Anything else you would like to say, counsel?

{¶9} Clinkscale maintains that the trial court improperly treated the juvenile charge as a conviction and used the supposed conviction to enhance her penalty. We find the record does not support these contentions.

{¶10} The trial court's reference to Clinkscale's juvenile charge as a "conviction" is more reasonably understood as a misstatement by the court rather than "effectively punish[ing] Ms. Clinkscale for conduct that was never proven." Appellant's Brief at 11. It is nonsensical to suppose that the court, contrary to the PSI Report, considered the charge as an actual adjudication when in the same sentence the court affirmed that it was dismissed. There is no compelling reason to treat the court's reference to a conviction as anything other than a misstatement.

{¶11} Nor does the record provide any indication that Clinkscale's juvenile record enhanced or was even a consideration in the determination of her sentence. On the face of the record, the trial court mentioned her juvenile record to correct trial counsel's misstatement that she had "no record." Duly admonished by the court, trial counsel

1. According to the PSI Report, Clinkscale was charged at age thirteen with Aggravated Battery upon Pregnant Female in Duval County, Florida, and the case was dismissed less than a month later.

2. On August 25, 2025, Clinkscale was charged with Fleeing, Recklessly Endangering Another Person, Obstruction, Harassment, Disorderly Conduct, and Retail Theft in Mercer County, Pennsylvania.

acknowledged that she had a “limited record.” Clinkscale’s juvenile record is not mentioned again.

{¶12} Clinkscale cites law for the proposition that “it is fundamentally unfair to treat a juvenile adjudication as a previous conviction that enhances either the degree of or the sentence for a subsequent offense committed as an adult.” *State v. Hand*, 2016-Ohio-5504, paragraph one of the syllabus. However, as noted, there is no indication in the record that Clinkscale’s limited juvenile record was used to enhance either the degree of her charges or the sentence itself.

{¶13} The trial court imposed a discretionary sentence, *i.e.*, within the statutory range, of three to four and one-half years for which no findings of any sort were required or made. See R.C. 2929.14(A)(2)(a) (“[f]or a felony of the second degree ... the prison term shall be an indefinite prison term with a stated minimum term selected by the court of two, three, four, five, six, seven, or eight years”). Clinkscale’s sentence was neither the minimum, the maximum, nor consecutive sentences.

{¶14} Finally, it is not improper for a trial court to consider a defendant’s juvenile record as part of the recidivism and seriousness factors relevant to determining a sentence. Consideration of juvenile adjudications is expressly mandated by R.C. 2929.12(D)(2) as is consideration of any other factors relevant to recidivism and seriousness. *State v. Blaskis*, 2025-Ohio-1896, ¶ 19 (11th Dist.) (“Ohio law plainly allows a sentencing judge to consider dismissed conduct, uncharged conduct, other arrests, or prior criminal conduct”). In this regard, the Supreme Court of Ohio recognizes “there is a significant difference between allowing a trial judge to consider an adjudication during adult sentencing and requiring a mandatory prison term to be imposed because of it.”

Hand at ¶ 20; *see also State v. Hart*, 2024-Ohio-4552, ¶ 16 (1st Dist.) (“[t]he trial court’s discussion of Hart’s juvenile record and its remark that ‘it has to stop’ are consistent with the statutory mandate that a trial court consider recidivism factors such as previous delinquency adjudications and responses to sanctions”).

{¶15} The first assignment of error is without merit.

Second Assignment of Error: Reagan Tokes Notifications

{¶16} In the second assignment of error, Clinkscale argues that the trial court failed to give the required statutory notifications regarding indefinite sentences at the sentencing hearing. The State concedes the error.

{¶17} When imposing a non-life felony indefinite prison term, the trial court is required to give the offender certain notifications at the sentencing hearing. R.C. 2929.19(B)(2)(c).

{¶18} In the present case, the trial court failed to notify Clinkscale that the presumption of release on the expiration of the minimum prison term may be rebutted at a hearing at which the department of rehabilitation and correction makes specified determinations regarding her conduct while confined, rehabilitation, threat to society, restrictive housing, if any, while confined, and her security classification; that, if the presumption is rebutted, the department may maintain her incarceration for a length of time it determines to be reasonable; and that the determinations necessary to maintain her incarceration may be made more than once. R.C. 2929.19(B)(2)(c)(ii)-(iv).

{¶19} This Court has held that the failure to give the notifications is contrary to law and requires a limited remand for the trial court to give the required notifications. *State v.*

Schmidt, 2026-Ohio-1913, ¶ 24-25 (11th Dist.); *State v. Karpovitch*, 2025-Ohio-4323, ¶ 46 (11th Dist.).

{¶20} The second assignment of error is with merit with respect to Count 1.

Third Assignment of Error: Constitutionality of the Reagan Tokes Act

{¶21} In the third assignment of error, Clinkscale argues that the Reagan Tokes Act violates the due process clauses of the United States and Ohio Constitutions because it fails to provide an individual with adequate notice and a fair hearing. Clinkscale acknowledges that the constitutionality of the Act was affirmed in *State v. Hacker*, 2023-Ohio-2535, and that it was found “not [to be] facially unconstitutional, because it provides that offenders receive a hearing before they may be deprived of their liberty interest.” *Id.* at ¶ 40. Nonetheless, Clinkscale raises the argument to preserve it for future appeal.

{¶22} The third assignment of error is without merit.

Fourth Assignment of Error: Prison is Presumed Necessary

{¶23} In the fourth assignment of error, Clinkscale argues the trial court predetermined that she was going to be sentenced to prison and thereby “deprived her of a meaningful opportunity to be heard and to have all relevant sentencing factors fairly considered.” Appellant’s Brief at 17.

{¶24} At the conclusion of the change-of-plea hearing, the trial court admonished Clinkscale: “Miss Clinkscale, you’re going to be submitting [sic] to a presentence investigation. It’s very important that you cooperate with the probation department, do everything they ask you to do because how long you’re going to go to prison is going to depend on what comes back in that report.”

{¶25} Contrary to Clinkscale’s position, we do not believe that the foregoing reflects the trial court’s predetermination to impose a prison sentence without regard for the law or the proper sentencing procedures. Rather, the foregoing is merely trying to impress upon Clinkscale the importance of cooperating with the probation department so that the court has accurate information when it imposes sentence. *State v. Crislip*, 2026-Ohio-789, ¶ 35 (11th Dist.) (“[t]he purpose of a presentence investigation report is to inform the sentencing judge of relevant aspects of the defendant’s history, so that the court will sentence the defendant in an informed, responsible, and fair manner”) (citation omitted). The court’s behavior throughout the proceedings supports such an interpretation.

{¶26} Because Clinkscale was convicted of second-degree felonies, prison was presumed “necessary in order to comply with the purposes and principles of sentencing under section 2929.11 of the Revised Code.” R.C. 2929.13(D)(1). The trial court acknowledged as much when taking Clinkscale’s pleas. It advised her: “Prison is presumed necessary, but it is not mandatory on each count.” The presumption could be rebutted in favor of a community control sanction if it were found that a community control sanction “would adequately punish the offender and protect the public from future crime” and “not demean the seriousness of the offense.” R.C. 2929.13(D)(2)(a) and (b). Until rebutted, there was no error in the trial court proceeding on the presumption that prison was necessary.

{¶27} At the sentencing hearing, Clinkscale was allowed to argue for a community control sanction, albeit on the mistaken belief that she had been accepted into NEOCAP. In fact, Clinkscale was rejected for NEOCAP because, as indicated in the PSI Report, it

was determined that placement in NEOCAP “would demean the seriousness of the instant offense.” The trial court heard from both Clinkscale and trial counsel and asked questions of Clinkscale. Even if the court was predisposed to imposing a prison sentence at the plea hearing as the law presumed, it did not prevent Clinkscale from arguing otherwise. Given the facts of this case, as well as Clinkscale’s record before and during the pendency of this case, no compelling reasons against prison were before the court.

{¶28} The fourth assignment of error is without merit.

{¶29} For the foregoing reasons, Clinkscale’s sentence is affirmed in part, reversed in part, and this matter is remanded for the limited purpose of providing the required notifications for the imposition of a non-life felony indefinite prison term (Count 1). Costs to be taxed between the parties equally.

MATT LYNCH, P.J.,

EUGENE A. LUCCI, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the Opinion of this court, the first, third, and fourth assignments of error are without merit and the second assignment has merit to the extent indicated in the Opinion. The order of this court is that the judgment of the Trumbull County Court of Common Pleas is affirmed in part, reversed in part, and remanded for the limited purpose of providing the required indefinite sentence notifications for Count 1.

Costs to be taxed between the parties equally.

JUDGE SCOTT LYNCH

PRESIDING JUDGE MATT LYNCH,
concur

JUDGE EUGENE A. LUCCI,
concur

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY
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A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.
