

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

STATE OF OHIO,
CITY OF WARREN,

Plaintiff-Appellee,

- VS -

JOSHUA M. BUCKNER,

Defendant-Appellant.

CASE NOS. 2026-T-0015
2026-T-0016
2026-T-0017
2026-T-0018
2026-T-0019

Criminal Appeals from the
Warren Municipal Court

Trial Court Nos. 2025 CRB 000580
2025 CRB 000581
2025 CRB 000582
2025 CRB 000583
2025 CRB 000584

OPINION AND JUDGMENT ENTRY

Decided: October 26, 2026

Judgment: Affirmed

Enzo Cantalamessa, Warren City Law Director, and *Deena M. Tannert*, Assistant Law Director, 141 South Street, S.E., Warren, OH 44481 (For Plaintiff-Appellee).

Frank L. Cassese, Betras Kopp, L.L.C., 6630 Seville Drive, Youngstown, OH 44406 (For Defendant-Appellant).

SCOTT LYNCH, J.

{¶1} Defendant-appellant, Joshua Buckner, appeals from his sentence for Disorderly Conduct, Resisting Arrest, and Obstructing Official Business in the Warren Municipal Court. For the following reasons, we affirm the judgment of the lower court.

{¶2} On April 5, 2025, complaints were filed against Buckner in the Warren Municipal Court in Case Nos. 2025 CRB 000580 through 000584, charging him with the

following: two counts of Assault, misdemeanors of the first degree, in violation of Warren Codified Ordinance 573.03; two counts of Disorderly Conduct Intoxication, misdemeanors of the fourth degree, in violation of W.C.O. 509.03; Resisting Arrest, a misdemeanor of the second degree, in violation of W.C.O. 525.09(a); Obstructing Official Business, a misdemeanor of the second degree, in violation of W.C.O. 525.07; and Petty Theft, a misdemeanor of the first degree, in violation of W.C.O. 545.05. The theft charge was subsequently dismissed.

{¶3} A February 6, 2026 trial was held at which testimony was presented demonstrating that Buckner became loud when a bartender would no longer serve him alcohol at a restaurant. A woman eating dinner with her family approached Buckner and asked him to calm down. Buckner began screaming at her. The woman's son approached Buckner, standing between Buckner and his mother. He indicated that in doing so, he brushed against Buckner's chest and Buckner pushed him.

{¶4} Police officers responded to Buckner's home. When an officer attempted to talk with Buckner about the incident, he became belligerent and circled the officer in "an extremely close manner." Buckner did not comply with commands to place his hands behind his back and when an officer grabbed his arm to arrest him, Buckner pulled away and was tased. He still failed to comply with commands and the taser was utilized a second time. Subsequently, when Buckner was taken to the hospital, he caused a scene, yelling profanities at the ER staff, causing the staff to ask him to be quiet for the consideration of other patients and the staff. He continued to be belligerent and shouted profanities, refusing to follow police instructions to cease his behavior.

{¶5} The jury found Buckner guilty of two counts of Disorderly Conduct, Resisting

Arrest, and Obstructing Official Business, and not guilty of two counts of Assault.

{¶6} The court held a sentencing hearing on February 11, 2026. Defense counsel requested that Buckner receive community control sanctions. He contended that Buckner had not had any involvement in the criminal justice system and assists in caring for his mother. Buckner apologized for his actions and expressed regret for the offenses.

{¶7} The court reviewed the testimony as presented at the trial and concluded that Buckner “present[ed] . . . a risk of harm to so many people because of [his] conduct” including himself and the officer through “aggressive” and “dangerous” actions. The judge found that the interaction leading to the resisting and obstructing charges involved evidence that “it was so extreme and outrageous and egregious and dangerous that a suspended sentence of probation is just not appropriate.” It found his conduct at the restaurant, his house, and the hospital disregarded the safety of others, noting the effect his behavior could have on those present at the hospital who were in distress or working on patients. The court ordered Buckner to serve consecutive terms of 90 days in jail for resisting arrest, 90 days for obstructing official business, and 30 days with five suspended for each count of disorderly conduct, with five years of probation. The trial court stayed the sentence pending appeal.

{¶8} On appeal, Buckner raises the following assignment of error:

{¶9} “The Trial Court Erred and Abused its Discretion by Imposing Consecutive Maximum and Near-Maximum Misdemeanor Jail Sentences that were Contrary to the Purposes and Principles of Misdemeanor Sentencing.”

{¶10} Buckner argues that the trial court’s sentence was an abuse of discretion for several reasons, emphasizing the existence of mitigating factors, the appropriateness

of a community control sanction rather than a jail sentence, and the court's consideration of various factors relating to conduct other than that underlying the crimes for which he was convicted.

Misdemeanor Sentencing Principles

{¶11} “Misdemeanor sentencing lies within the discretion of the trial court and will not be disturbed absent an abuse of discretion.” *State v. Hogle*, 2023-Ohio-342, ¶ 14 (11th Dist.). An abuse of discretion occurs when the trial court fails “to exercise sound, reasonable, and legal decision-making.” *State v. Beechler*, 2010-Ohio-1900, ¶ 62 (2d Dist.), quoting *Black’s Law Dictionary* (8th Ed.2004).

{¶12} “A court that sentences an offender for a misdemeanor . . . shall be guided by the overriding purposes of misdemeanor sentencing” which are “to protect the public from future crime by the offender and others and to punish the offender.” R.C. 2929.21(A). “To achieve those purposes, the sentencing court shall consider the impact of the offense upon the victim and the need for changing the offender’s behavior, rehabilitating the offender, and making restitution to the victim of the offense.” *Id.*

{¶13} “In determining the appropriate sentence for a misdemeanor, the court shall consider” the following pertinent factors: “[t]he nature and circumstances of the offense”; whether the offender has a history of persistent criminal activity and his character reveals “a substantial risk” he will commit another offense; whether his history, character and condition reveal a substantial risk he will be a danger to others and he has a pattern “of repetitive, compulsive, or aggressive behavior with heedless indifference to the consequences”; whether any factor relating to the victim made him vulnerable to the offense or the impact more serious; and whether the offender is “likely to commit future

crimes in general.” R.C. 2929.22(B)(1)(a)-(e). While the sentencing court must consider the criteria in R.C. 2929.22(B), it does not “mandate that the trial court state on the record that it considered the applicable statutory factors” and a silent record raises the presumption that they were considered. (Citation omitted.) *State v. Oatman*, 2026-Ohio-1113, ¶ 38 (11th Dist.); *State v. Petrovich*, 2019-Ohio-3547, ¶ 23 (11th Dist.).

Consideration of Relevant Statutory Sentencing Factors

{¶14} Buckner argues that there were substantial factors which should mitigate his sentence, including his lack of a meaningful prior criminal history, ownership of his own business, and assisting in the care of his mother.

{¶15} In ordering a misdemeanor sentence, the court is to be guided by the purposes under R.C. 2929.21 and required to consider those factors outlined in R.C. 2929.22. The trial court stated that it considered the purposes and principles of sentencing. It considered various relevant facts, which was demonstrated by an extensive discussion of the evidence, the danger of the conduct to others, and impact on others in the community. Further, the sentences were within the statutory ranges for second- and fourth-degree misdemeanors. R.C. 2929.24(A)(2) and (4). “[W]hen the misdemeanor offender’s sentence is within the statutory limits and there is no affirmative indication on the record that the trial court failed to consider the factors set forth in R.C. 2929.22, the reviewing court is to presume the trial court considered the applicable statutory factors when it imposed the sentence.” *State v. Fromknecht*, 2023-Ohio-4604, ¶ 6 (11th Dist.), citing *State v. Corradetti*, 2022-Ohio-1279, ¶ 44 (11th Dist.). Buckner does not demonstrate that the trial court failed to do so. While Buckner takes issue with the court’s weighing of the factors, emphasizing his lack of criminal history and

demonstrated remorse, we must review the trial court's sentence for an abuse of discretion. It is evident the court's sentence had a basis rooted in the sentencing factors as discussed above. We find no abuse of discretion. *State v. Tackett*, 2026-Ohio-3514, ¶ 19 (11th Dist.).

{¶16} Buckner contends that the sentence was not proportionate to the offenses for which he was convicted and was greater than necessary to punish him, to protect the public, or deter future conduct. See R.C. 2929.21(A). Again, it is within the trial court's discretion to determine the appropriate sentence given the facts before it and we find nothing to show it erred in this regard. The court instead showed that it considered all of the facts of the offenses, including his commission of separate offenses in three different locations impacting many individuals, and acted within its discretion to sentence Buckner accordingly.

{¶17} Buckner contends that community control was a more appropriate sentence under the circumstances described above. The court was permitted to impose a jail term, suspend all or part of that term, and also place Buckner under community control as it did here. R.C. 2929.25(A)(1); *Tackett* at ¶ 21. For those reasons outlined above, we find no abuse of discretion in determining that a jail term was warranted.

Court's Consideration of Appropriate Evidence

{¶18} Buckner argues that the trial court considered evidence that was unrelated to his convictions in ordering his sentence. First, he contends that the court erred in considering the "general danger" he posed to the public and potential, rather than actual, harm. The trial court reviewed the facts it considered, including: the "choices" Buckner made at the restaurant; his aggressive and dangerous conduct toward the officer; that he

committed the conduct with the officers in the presence of his family and a passerby; the impact his conduct had on individuals at the hospital; and the fact that he continued to commit offenses at several locations. These are not facts unrelated to his convictions. He was convicted of disorderly conduct in relation to his behavior at the hospital and the restaurant, and his behavior at those locations is relevant to those offenses. He was convicted of obstruction and resisting as it relates to the conduct with the officers and his behavior in interacting with them was directly relevant. Further, the general danger he posed to the public and potential harm to the community in committing these crimes were pertinent to the principles of sentencing and whether he poses a future risk, with the trial court recognizing that he had multiple chances to discontinue his behavior but continued to make poor choices.

{¶19} Buckner also argues that the court should not have considered conduct relating to the assault charges or “punish him as though the jury had convicted him of the most serious allegations.” It is accurate that Buckner was acquitted of the assault offenses but the court made no indication that it punished him for those offenses. There are certainly facts relating to the assault and disorderly conduct at the restaurant that could be intertwined and it was appropriate for the court to consider those facts to the extent they were pertinent to sentencing. See *State v. Corey*, 2022-Ohio-4568, ¶ 79 (11th Dist.) (“it is well-established in Ohio law that the court may consider information beyond that strictly related to the conviction offense”) (citation omitted). Further, the court could not have punished him to the same degree as an assault because the available penalties were not those applicable for a first-degree felony conviction. It properly sentenced him within the ranges available to it for second- and fourth-degree misdemeanors. In the

absence of any evidence indicating it gave Buckner a greater sentence because he had been charged with assault, we decline to find this was the case.

{¶20} Finally, Buckner argues that the trial court considered facts that were not before the jury. At the sentencing hearing, the court stated that it reviewed the information presented to the jury and “information that wasn’t presented to the jury as well.” We observe that “the rules of evidence do not apply to sentencing proceedings.” *State v. Reynoso*, 2025-Ohio-3119, ¶ 24 (11th Dist.). A sentencing judge may consider not only evidence presented at trial but is required and/or permitted to consider other items such as victim and defense statements at the sentencing hearing and presentence investigation reports. See R.C. 2929.22(D)(1); Crim.R. 32.2.

{¶21} The sole assignment of error is without merit.

{¶22} For the foregoing reasons, Buckner’s sentence in the Warren Municipal Court is affirmed. Costs to be taxed against appellant.

JOHN J. EKLUND, J.,

ROBERT J. PATTON, J.,

concur.

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 judgments of the Warren Municipal Court are affirmed.

Costs to be taxed against appellant.

JUDGE SCOTT LYNCH

JUDGE JOHN J. EKLUND,
concur

JUDGE ROBERT J. PATTON,
concur

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.