[Cite as *State v. Jones*, 2026-Ohio-4435.]

IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
GEAUGA COUNTY

STATE OF OHIO, Plaintiff-Appellee, - vs - TREY LA MONTRE JONES, Defendant-Appellant.	**CASE NO. 2026-G-0003** Criminal Appeal from the Court of Common Pleas Trial Court No. 2024 C 000109

OPINION AND JUDGMENT ENTRY

Decided: November 9, 2026
Judgment: Affirmed

James R. Flaiz, Geauga County Prosecutor, and *Christian A. Bondra*, Assistant Prosecutor, Courthouse Annex, 231 Main Street, Suite 3A, Chardon, OH 44024 (For Plaintiff-Appellee).

Edward F. Borkowski, Jr., P.O. Box 609151, Cleveland, OH 44109 (For Defendant-Appellant).

ROBERT J. PATTON, J.

{¶1} Defendant-appellant, Trey La Montre Jones ("Jones"), appeals the judgment of the Geauga County Court of Common Pleas sentencing him to an indefinite prison term of 16 to 20 years and an aggregate fine of $20,000 following his guilty plea to two counts of trafficking in cocaine, first-degree felonies.

{¶2} On appeal, Jones argues that the trial court erred in denying his motion to suppress. Acknowledging that he entered a guilty plea and therefore waived review of his motion to suppress, however, Jones argues in the alternative that his counsel was ineffective for advising him to enter a guilty plea. Jones further argues that the trial court

erred in accepting his guilty plea and that his consecutive sentences are not supported by the record.

{¶3} Upon review, we find that Jones's guilty plea precludes appellate review of his motion to suppress, and Jones's counsel was not ineffective for advising him to plead guilty as counsel negotiated a highly favorable plea bargain where the State agreed to dismiss 11 felony counts. It appears from the record that the State's offer was expressly conditioned on Jones entering a guilty plea. We find the trial court's plea colloquy was compliant with Crim.R. 11, and we find that Jones's consecutive sentences are consistent with law.

{¶4} Accordingly, the judgment of the Geauga County Court of Common Pleas is affirmed.

Substantive and Procedural Facts

{¶5} A Geauga County Grand Jury indicted Jones on 13 counts: five counts of trafficking in cocaine, fifth-degree felonies, in violation of R.C. 2925.03(A)(1)(C)(4)(a) ("Counts 1, 3, 4, 6, and 9"); four counts of possession of cocaine, fifth-degree felonies, in violation of R.C. 2925.11(A)(C)(4)(a) ("Counts 2, 5, 7, and 10"); two counts of trafficking in cocaine, first-degree felonies, in violation of R.C. 2925.03(A)(1)(C)(4)(f) ("Counts 8 and 11"); one count of trafficking in cocaine, a first-degree felony, in violation of R.C. 2925.03(A)(2)(C)(4)(f) ("Count 12"); and one count of possession of cocaine, a first-degree felony, in violation of R.C. 2925.11(A)(C)(4)(e) ("Count 13").

{¶6} Jones pleaded not guilty to the charges and filed pretrial motions including a motion to dismiss Counts 11, 12, and 13, and a motion to suppress evidence obtained

during from the traffic stop.[1] After a suppression hearing, both of Jones's pretrial motions were denied.

{¶7} Following negotiations, the State informed the trial court that an agreement had been reached for Jones to plead guilty to Counts 8 and 11 in exchange for the State's dismissal of all remaining charges. The court confirmed Jones's understanding of that agreement and proceeded to a Crim.R. 11 plea colloquy. After accepting Jones's guilty plea, the trial court ordered a presentence investigation ("PSI").

{¶8} At sentencing, the trial court considered the PSI , heard the arguments of counsel, and found that consecutive sentences were necessary to protect the public from future crime, punish Jones, and that the harm was so great or unusual that no single prison term could adequately reflect the seriousness of Jones's conduct. The trial court sentenced Jones to an indefinite prison term of 8 to 12 years on Count 8, and an 8-year prison term on Count 11. Thus, Jones's aggregate sentence was 16 to 20 years in prison. The trial court also imposed a mandatory minimum fine of $10,000 on each count.

The Appeal

{¶9} Jones timely appeals and raises the following assignments of error for review:

> [1.] The trial court erred by denying [Jones's] motion to suppress.
>
> [2.] The trial court erred by accepting [Jones's] guilty plea when it was not knowingly, intelligently, and voluntarily made.
>
> [3.] [Jones's] counsel was ineffective.
>
> [4.] [Jones's] sentence is contrary to law.

1. We omit a recitation of the facts established at the suppression hearing as they are immaterial to the merits of this appeal.

Motion to Suppress and Ineffective Assistance of Counsel

{¶10} As they are related, we address Jones's first and third assignments of error together. In his first assignment of error, Jones argues that the trial court erred by denying his motion to suppress. However, as Jones acknowledges in his third assignment of error, he pled guilty. "By entering a guilty plea, a defendant waives the right to raise on appeal the correctness of a trial court's suppression ruling." *State v. Howiler*, 2008-Ohio-1171, ¶ 19 (7th Dist.); *accord State v. Beasley*, 2018-Ohio-16, ¶ 15, citing *State v. Fitzpatrick*, 2004-Ohio-3167, ¶ 78 ("A valid guilty plea by a counseled defendant . . . generally waives the right to appeal all prior nonjurisdictional defects, including the denial of a motion to suppress.") Accordingly, we find Jones's first assignment of error to be without merit as his guilty plea precludes appellate review.

{¶11} Jones argues, in the alternative, that his counsel was ineffective for advising Jones to plead guilty instead of no contest. We disagree.

{¶12} "To obtain a reversal of a conviction on the basis of ineffective assistance of counsel, the defendant must prove (1) that counsel's performance fell below an objective standard of reasonableness, and (2) that counsel's deficient performance prejudiced the defendant resulting in an unreliable or fundamentally unfair outcome of the proceeding." *State v. Madrigal*, 2000-Ohio-448, ¶ 49, citing *Strickland v. Washington*, 466 U.S. 668, 687-688 (1984). However, in a case where the defendant pleaded guilty, the defendant "must show that there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty." *State v. Xie*, 62 Ohio St.3d 521, 524 (1992), quoting *Hill v. Lockhart*, 474 U.S. 52, 59 (1985).

{¶13} Jones relies on a Second District decision describing the test for ineffective assistance of counsel in the context of guilty pleas and plea bargains. Specifically, a defendant must show "(1) the State would have agreed to a no-contest plea on the same terms; (2) counsel failed to advise the defendant that a no-contest plea, in contradistinction to a guilty plea, would preserve the pretrial issue for appeal; and (3) had defendant been so advised, the defendant would have rejected the plea offer." *State v. Frazier*, 2016-Ohio-727, ¶ 82 (2d Dist.).

{¶14} However, the factors outlined in *Fraizer* must be based on information contained in the trial court record. *See id*. ("The record fails to establish any of these facts.") "A meaningful review of the trial court's decision must be based on the record before us, not mere conclusory assertions in an appellate brief." *State v. Kelly*, 145 Ohio App.3d 277, 283 (12th Dist. 2001). "A reviewing court cannot add matters to the record before it, which was not a part of the trial court's proceedings, and then decide the appeal on the basis of the new matter." *State v. Ishmail*, 54 Ohio St.2d 402 (1978), paragraph one of the syllabus.

{¶15} Jones has failed to cite the record showing that the State would have been willing to dismiss the remaining 11 counts for a no-contest plea. Nor does Jones cite to any indication that he was unwilling to accept the deal had he been advised that doing so would waive appellate review of his motion to suppress. Instead, Jones merely asserts these allegations in his brief. Our review of the trial record fails to garner support for these propositions. In contrast, it appears when the State presented the offer, it was expressly conditioned on Jones pleading guilty to Counts 8 and 11. The prosecutor stated "[Jones]

will enter a plea of *guilty* to Count 8 . . . and Count 11 of the Indictment . . . And the State agrees to dismiss all of the remaining Counts . . . ."

{¶16} Moreover, "[t]he mere fact that the defendant's guilty plea waived the ability to challenge pretrial rulings does not, without more, demonstrate deficient performance by counsel." *Fraizer*, 2016-Ohio-727, at ¶ 83 (2d Dist.). It is clear from the record that counsel's performance was not deficient. Counsel negotiated a highly favorable plea deal where 11 felony counts, including three first-degree felonies, were dismissed in exchange for Jones's guilty plea. *See State v. Harris*, 2020-Ohio-4101, ¶ 37 (12th Dist.) (holding counsel was not deficient nor was the defendant prejudiced where he "benefited from a favorable plea deal" dismissing felony counts).

{¶17} Accordingly, Jones's first and third assignments of error are without merit.

Plea Colloquy

{¶18} In his second assignment of error, Jones argues that his guilty plea is invalid as it was not entered into knowingly, intelligently, and voluntarily pursuant to Crim.R. 11. Specifically, Jones argues that his plea was not knowingly entered as the trial court did not advise him that a guilty plea waives appellate review of his motion to suppress. Finding that no such advisement was required under Crim.R. 11, we disagree.

{¶19} "'When a defendant enters a plea in a criminal case, the plea must be made knowingly, intelligently, and voluntarily. Failure on any of those points renders enforcement of the plea unconstitutional under both the United States Constitution and the Ohio Constitution.'" *State v. Veney*, 2008-Ohio-5200, ¶ 7, quoting *State v. Engle*, 1996-Ohio-179, ¶ 7. "Crim.R. 11 was adopted in 1973, giving detailed instruction to trial courts on the procedure to follow when accepting pleas." *Veney* at ¶ 7. Crim.R. 11

"'ensures an adequate record on review by requiring the trial court to personally inform the defendant of his rights and the consequences of his plea and determine if the plea is understandingly and voluntarily made.'" *State v. Dangler*, 2020-Ohio-2765, ¶ 11, quoting *State v. Stone*, 43 Ohio St.2d 163, 168 (1975). "This court reviews de novo whether the trial court accepted a plea in compliance with Crim.R. 11." *State v. Willard*, 2021-Ohio-2552, ¶ 51 (11th Dist.), citing *State v. Dundics*, 2016-Ohio-1368, ¶ 10 (11th Dist.).

{¶20} Crim.R. 11(C)(2) provides:

> In felony cases the court may refuse to accept a plea of guilty or a plea of no contest, and shall not accept a plea of guilty or no contest without first addressing the defendant personally either in-person or by remote contemporaneous video in conformity with Crim.R. 43(A) and doing all of the following:
>
> (a) Determining that the defendant is making the plea voluntarily, with understanding of the nature of the charges and of the maximum penalty involved, and if applicable, that the defendant is not eligible for probation or for the imposition of community control sanctions at the sentencing hearing.
>
> (b) Informing the defendant of and determining that the defendant understands the effect of the plea of guilty or no contest, and that the court, upon acceptance of the plea, may proceed with judgment and sentence.
>
> (c) Informing the defendant and determining that the defendant understands that by the plea the defendant is waiving the rights to jury trial, to confront witnesses against him or her, to have compulsory process for obtaining witnesses in the defendant's favor, and to require the state to prove the defendant's guilt beyond a reasonable doubt at a trial at which the defendant cannot be compelled to testify against himself or herself.

{¶21} When a defendant challenges his plea to a felony, a reviewing court engages in a three-prong inquiry: "(1) has the trial court complied with the relevant provision of [Crim.R. 11(C)(2)]? (2) if the court has not complied fully with the rule, is the

purported failure of a type that excuses a defendant from the burden of demonstrating prejudice? and (3) if a showing of prejudice is required, has the defendant met that burden?" *Dangler* at ¶ 17.

{¶22} Our first inquiry under *Dangler* is whether the trial court complied with the relevant provision of Crim.R. 11(C)(2). *Dangler*, 2020-Ohio-2765, at ¶ 11. Here, Jones argues that his plea was not knowingly entered as the trial court failed to advise him that a guilty plea waives appellate review of a suppression motion. "[T]he failure to inform a defendant that a guilty plea waives certain rights on appeal is not one of the specifically enumerated rights the trial court is required to discuss during the Crim.R. 11 colloquy." *State v. Reynolds*, 2018-Ohio-4942, ¶ 12 (12th Dist.), citing *State v. Moxley*, 2012-Ohio-2572, ¶ 13 (12th Dist.). More specifically, "a trial court need not inform a defendant that he is waiving the right to appeal the overruling of a motion to suppress." *State v. Hackathorn*, 2022-Ohio-1612, ¶ 17 (7th Dist.), citing *State v. Jones*, 2006-Ohio-4284, ¶ 8 (1st Dist.); *accord State v. Nichols*, 2024-Ohio-5530, ¶ 22 (6th Dist.), quoting *Hackathorn*. Accordingly, this prong of Jones's argument is without merit.

{¶23} Jones further takes issue with an excerpt of the plea colloquy where the trial court discussed appellate rights. The following exchange occurred during the colloquy:

> THE COURT: Do you understand that you're giving up your right to appeal a finding of guilty as a result of your guilty plea here today?
>
> MR. JONES: Yes, your Honor.
>
> THE COURT: Okay. Do you also understand as a result of your guilty plea, you're giving up your right to appeal any errors that might occur during a trial because you're giving up your right to a trial?
>
> MR. JONES: Yes, your Honor.

> THE COURT: Now, you don't necessarily lose all of your appeal rights by pleading guilty. Depending upon the outcome of your case, you may possess the right to appeal this Court's decision. If you choose to do that, an appeal in a criminal case must be filed within 30 days after sentencing. Also, if you cannot afford an attorney or the costs of an appeal, the Court can appoint an attorney to assist you, and have the cost of your appeal, including preparation of a transcript, paid for from public funds. Do you understand that?
>
> MR. JONES: Yes, your Honor.

{¶24} Jones argues that the trial court's advisement that he was not necessarily losing *all* of his appellate rights reasonably led him to believe that he was preserving the right to challenge the denial of his motion to suppress. Jones cites *State v. Lask,* 2019-Ohio-2753 (4th Dist.). We find this case inapposite. In *Lask*, "all the parties, including the judge and prosecutor" mistakenly believed certain appellate rights were preserved by the defendant's plea. *Id.* at ¶ 15. The record in this case does not demonstrate that any party, not even Jones himself, had such a mistaken belief.

{¶25} Jones also directs our attention to the Fourth District's decision in *State v. Tolle*, 2022-Ohio-2839 (4th Dist.). In *Tolle*, the trial court incorrectly advised the defendant that "even if you do enter a plea of guilty . . . you'll keep the right to appeal any and all decisions of this court in your case." *Id.* at ¶ 4. The defendant proceeded to enter a guilty plea with that understanding. *Id.* at ¶ 5.

{¶26} The Fourth District reversed the judgment of the trial court, stating that "although the trial court may not be required to inform a defendant that a guilty plea results in a limited right of appeal, we conclude that if the trial court chooses to inform a defendant of his or her right of appeal after entering a guilty plea and incorrectly informs a defendant that he or she retains a full right of appeal, there is resulting prejudice." *Id.* at ¶ 24.

{¶27} We find the facts here distinguishable from *Tolle*. The defendant in *Tolle* was explicitly given an incorrect advisement that he would retain the right to appeal "any and all decisions" of the court. *Id.* at ¶ 4. Jones, on the other hand, was not *incorrectly* advised. The trial court's statement that Jones would "not necessarily lose all of [his] appeal rights by pleading guilty," although vague and perhaps inartful, does not misstate the law. Jones certainly retained *some* appellate rights following his guilty plea, including contests to the voluntariness of his plea and sentencing issues.[2] The trial court's statement also came after correctly advising Jones that he was waiving the right to appeal the court's finding of guilt and any errors that may occur during a trial. Therefore, the trial court's advisements were legally accurate.

{¶28} Accordingly, we conclude that nothing about the trial court's statement in this case created an expectation that Jones would "retain[] a full right of appeal" as contemplated by the holding in *Tolle*, nor did the trial court create an expectation that Jones could appeal suppression issues. *Id.* at ¶ 24. We further note that the written plea of guilty form, which Jones executed by signature, indicated Jones's understanding that he had been advised by counsel that he would retain only "limited appellate rights."

{¶29} Jones's second assignment of error is without merit.

Consecutive Sentences

{¶30} In his fourth assignment of error, Jones argues that the trial court erred by imposing consecutive sentences. While Jones concedes that the trial court made the

2. The Supreme Court of Ohio has recently authorized courts to infer a defendant understands the effect of his guilty plea absent the defendant's assertion of innocence on the record. *State v. Fotanez*, Slip Opinion No. 2026-Ohio-3281.

requisite findings, he argues that the trial court's findings are not supported by the record. We disagree.

{¶31} The standard of review for felony sentences is governed by R.C. 2953.08(G)(2), which provides:

> The court hearing an appeal under division (A), (B), or (C) of this section shall review the record, including the findings underlying the sentence or modification given by the sentencing court.
>
> 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. The appellate court's standard for review is not whether the sentencing court abused its discretion. The appellate court may take any action authorized by this division if it clearly and convincingly finds either of the following:
>
> (a) That the record does not support the sentencing court's findings under division (B) or (D) of section 2929.13, division (B)(2)(e) or (C)(4) of section 2929.14, or division (I) of section 2929.20 of the Revised Code, whichever, if any, is relevant;
>
> (b) That the sentence is otherwise contrary to law.

{¶32} "'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.'" *State v. Shannon*, 2021-Ohio-789, ¶ 11 (11th Dist.), quoting *State v. Brown*, 2017-Ohio-8416, ¶ 74 (2d Dist.). In the context of consecutive sentencing, the Supreme Court of Ohio has stated that appellate courts are required "to defer to a trial court's consecutive-sentence findings." *State v. Gwynne*, 2023-Ohio-3851, ¶ 5 (plurality). Accordingly, "'our consecutive-sentencing review is limited to determining whether the record supports the

findings actually made; it is not an invitation to determine or criticize how well the record supports the findings.'" *State v. Nienberg*, 2017-Ohio-2920, ¶ 19 (3d Dist.), quoting *State v. Jones*, 2016-Ohio-8145, ¶ 9 (8th Dist.).

{¶33} At sentencing, the trial court stated the following findings:

> I find that consecutive prison sentences are necessary to protect the public from future crime, as well as to punish the offender, and that consecutive sentences are not disproportionate to the seriousness of Mr. Jones's conduct and the danger that he poses to the public.
>
> I also make a finding that at least two of the multiple offenses were committed as part of one or more courses of conduct, and that the harm caused by the two or more 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 Mr. Jones's conduct.
>
> I also find that Mr. Jones's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by Mr. Jones.

{¶34} Jones first argues that the harm caused cannot have been so great or unusual to warrant consecutive sentences as Jones's trafficking sales were made directly to law enforcement. Several appellate districts have rejected this argument. *See, e.g.*, *State v. Mason*, 2020-Ohio-3505, ¶ 18 (3d Dist.) ("the harm from [the defendant's] conduct stems from his intention to distribute drugs—namely, a significant amount of cocaine—to his community."); *State v. Sampson*, 2002-Ohio-1668, ¶ 16 (5th Dist.) (rejecting the argument that there was "no harm" caused by the drug sales when they were in fact sold to a police officer); *State v. Waxler*, 2017-Ohio-7536, ¶ 15-16 (6th Dist.) ("The court rejected [the defendant's] attempt to downplay the harm caused by his conduct based upon the fact that the crimes involved sales to law enforcement . . . we agree with the trial

court that the harm stemming from [the defendant's] conduct centers on his intention to distribute drugs . . . to his community.")

{¶35} These cases mirror the trial court's reasoning. The court advised Jones that

> the majority of the crimes that we see here in our county. . . are drug related somehow, whether it is possession, whether it is theft, where substance use disorders are the underlying issues. That's the majority of what we see as far as criminal acts in our county. Selling drugs in this county contributes to that and it encourages it and it makes it possible. And this has, I believe illegal drugs, cocaine being one of them, caused a lot of damage to our community, to families, to our society. And you know, we don't want this in our community, and I don't really want it in any community. So you know, that is a concerning issue, and that is an issue that I have to take into account.

{¶36} Jones further disagrees with the trial court's determination that his criminal history demonstrates a need to protect the public from future crime. Jones notes that while he has a criminal history, the majority of his prior offenses are misdemeanors and juvenile convictions. However, as this court has previously stated, when imposing consecutive sentences "a sentencing court may consider an offender's juvenile adjudications as well as his adult criminal convictions." *State v. Fatica*, 2005-Ohio-4209, ¶ 39 (11th Dist.), citing *State v. Colbert*, 2005-Ohio-2524, ¶ 18 (11th Dist.); *State v. Mendenhall*, 2005-Ohio-2525, ¶ 18 (11th Dist.). Jones's criminal history, as revealed by the PSI, was a permissible consideration. Affording due deference to the sentencing court's findings, we therefore conclude that the trial court's consecutive-sentence findings are supported by the record. *Gwynne*, 2023-Ohio-3851, at ¶ 5 (plurality).

{¶37} Jones's fourth assignment of error is without merit.

Conclusion

{¶38} For the reasons set forth above, the judgment of the Geauga County Court of Common Pleas is affirmed.

JOHN J. EKLUND, J.,

SCOTT LYNCH, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this court, appellant's assignments of error are without merit. It is the judgment of this court that the judgment of the Geauga County Court of Common Pleas is affirmed.

Costs to be taxed against appellant.

JUDGE ROBERT J. PATTON

JUDGE JOHN J. EKLUND,
concurs

JUDGE SCOTT LYNCH,
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.