

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
BUTLER COUNTY

STATE OF OHIO,	:	CASE NO. CA2026-03-032
Appellee,	:	
vs.	:	<u>OPINION AND</u>
	:	<u>JUDGMENT ENTRY</u>
	:	9/28/2026
KARIM BAKHSH FARQIRI aka KARIM	:	
FAQIRI,	:	
Appellant.	:	

CRIMINAL APPEAL FROM BUTLER COUNTY COURT OF COMMON PLEAS
Case No. CR2025-05-0542

Michael T. Gmoser, Butler County Prosecuting Attorney, and Michael Greer, Assistant Prosecuting Attorney, for appellee.

Christopher J. Pagan, for appellant.

OPINION

SIEBERT, J.

{¶ 1} Karim Bakhsh Farqiri appeals the Butler County Court of Common Pleas' imposition of consecutive sentences on nine counts of sexual battery. Farqiri argues the

trial court failed to make necessary findings to impose consecutive sentences. Upon review, we agree that the trial court did not make the statutorily required findings at either the sentencing hearing or in its sentencing entry before imposing consecutive sentences in this case. These omissions constitute plain error because the trial court failed to notify Farqiri why it was not following the statutory presumption in favor of concurrent sentences. This failure affected the fairness, integrity, or reputation of judicial proceedings and requires remand for resentencing.

Background

{¶ 2} Farqiri pled guilty to nine counts of sexual battery committed against his two minor daughters. The trial court imposed a four-year sentence on each count and ordered the sentences to run consecutively, resulting in an aggregate sentence of 36 to 38 years in prison. At sentencing, the trial court judge described Farqiri's crimes as "truly troubling," citing the "most sacrosanct" relationship between a father and daughter that Farqiri violated. The judge acknowledged that while Farqiri took responsibility for his crimes, that "[did not] change the gravity of the situation" or the severity of those crimes.

{¶ 3} Before imposing Farqiri's sentence, the judge stated he "considered the record and overriding purposes of felony sentencing to protect the public from future crime and punish the offender. . . [as well as] the seriousness and recidivism factors set forth in Ohio Revised Code 2929.11 and 2929.12." The judge then imposed "a minimum term of incarceration of four years on each count to a maximum of six years on each count. All counts to be run consecutive to one another." The judge also provided Farqiri with the statutory advisements required for his indefinite sentence, post-release control, sex offender registration, and other matters. The trial court's sentencing entry likewise stated Farqiri's sentences would be served consecutively.

{¶ 4} Farqiri now appeals.

First Assignment of Error – Consecutive Sentences Findings

Applicable Law and Standard of Review

{¶ 5} Under Ohio law, there is a presumption in favor of concurrent sentences. *State v. Bonnell*, 2014-Ohio-3177, ¶ 4. However, if the trial 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 . . ." that presumption may be overcome. R.C. 2929.14(C)(4). As applicable here, the trial court must also find:

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.

R.C. 2929.14(C)(4)(b).

{¶ 6} Ohio law requires the trial court to state these findings at the sentencing hearing to "afford[] notice to the offender and to defense counsel" of the reasons consecutive sentences were imposed. *Bonnell* at ¶ 29, citing Crim.R. 32(A)(4). While "a word-for-word recitation of the language of the statute is not required . . . the reviewing court [should be able to] discern that the trial court engaged in the correct analysis and can determine that the record contains evidence to support the findings" in favor of consecutive sentences. *Id.* Moreover, the court "should also incorporate its statutory findings into the sentencing entry." *Id.*

{¶ 7} If, upon review, an appellate court determines that the trial court failed to make these findings and incorporate them into its sentencing entry, that sentence is contrary to law, and the matter must be reversed and remanded for resentencing. *State*

v. Evans, 2026-Ohio-1237, ¶ 88, 101 (12th Dist.), citing *Bonnell* at ¶ 37. In this case, the parties acknowledge that Farqiri did not object to the trial court's lack of consecutive sentencing findings at sentencing, meaning he forfeited all but "plain error."

{¶ 8} A party asserting plain error must establish three things: (1) that an error occurred, (2) that the error was obvious under current law, and (3) that the error affected a substantial right. See *State v. Barnes*, 2002-Ohio-68, ¶ 20. Whether the error impacts a substantial right is often analyzed under the metric of whether the error affected the outcome of the trial. *State v. Bailey*, 2022-Ohio-4407, ¶ 8. Even when a defendant satisfies these three prongs, this court is not obligated to correct every error. Crim.R. 52(B) (stating a reviewing court "may" notice plain forfeited errors). Both the United States Supreme Court and the Supreme Court of Ohio suggest that plain errors should be corrected if the error "seriously affect[s] the fairness, integrity or public reputation of judicial proceedings." *Barnes* at ¶ 21, quoting *United States v. Atkinson*, 297 U.S. 157, 160 (1936).

{¶ 9} As acknowledged by the State, several of our sister courts of appeals have held that the failure to make the necessary consecutive sentences findings makes the sentence "contrary to law and constitutes plain error." *State v. Wilson*, 2013-Ohio-1520, ¶ 18 (10th Dist.); *State v. Stubbs*, 2019-Ohio-2645, ¶ 7 (6th Dist.); *State v. Gill*, 2024-Ohio-2792, ¶ 44 (1st Dist.), *appeal not allowed*, 2024-Ohio-5529. While we agree with the outcome of our sister districts who have considered the same question, we find it necessary to provide a more complete plain error analysis here.

Analysis

{¶ 10} We begin our plain error analysis by evaluating whether an error occurred. Farqiri argues the trial court failed to make any of the findings required for consecutive sentencing at his sentencing hearing or in its sentencing entry. The State concedes the

trial court did not include the required findings in its sentencing entry. However, the State asserts the trial court made the necessary findings at the sentencing hearing when it stated it had "considered the record and overriding purposes of felony sentencing to protect the public from future crime and punish the offender . . ." and repeatedly stressed the gravity and troubling nature of Farqiri's crimes against his minor daughters. The State claims that, from these comments, "it could be inferred that Farqiri had engaged in a course of conduct."

{¶ 11} The State's attempt to shoehorn various comments made by the trial court into the necessary consecutive sentence findings leaves us unconvinced. The trial court's reference to protecting the public and punishing Farqiri addressed the overriding purposes of felony sentencing, not the justification for consecutive sentences. Similarly, the trial court's commentary on the troubling nature of Farqiri's crimes was not tied to its imposition of consecutive sentences. This "[c]ontext is important." *Evans*, 2026-Ohio-1237, at ¶ 93 (12th Dist.).

{¶ 12} The first prong of plain error is satisfied here. The trial court erred by failing to make any of the required consecutive sentence findings at the sentencing hearing. Moreover, the absence of consecutive sentence findings in the trial court's sentencing entry confirms the trial court did not make the necessary findings. And we conclude the trial court's error was obvious under current law, thereby also satisfying the second prong of the plain error analysis. Ohio law is settled—these consecutive sentence findings must be made to "afford[] notice to the offender and to defense counsel" as to why consecutive sentences were imposed. *Bonnell*, 2014-Ohio-3177, at ¶ 29.

{¶ 13} We turn next to the third prong in the plain error analysis—whether the trial court's error impacted a substantial right. In many contexts, this prong requires determining if the error affected the outcome of the trial. *Bailey*, 2022-Ohio-4407, at ¶ 8.

In this case, however, no trial occurred because Farqiri pled guilty. This prong must therefore be framed in the context of Farqiri's sentencing.

{¶ 14} We conclude the trial court's error affected Farqiri's substantial rights. Ohio's criminal sentencing laws presume concurrent sentences and allow a court to impose consecutive sentences only after making the required findings. The trial court's error affected Farqiri's substantial right because it changed his sentence from concurrent to consecutive, significantly increasing the length of his prison term, without the explanation and reasoning required under Ohio law.

{¶ 15} Because the trial court's error satisfies all three prongs of the plain error analysis, we next turn to the question of whether we should correct this error pursuant to Crim.R. 52(B). We find we should because the trial court's error seriously affected the fairness, integrity, or public reputation of Farqiri's judicial proceeding. See *Barnes*, 2002-Ohio-68, at ¶ 21.

{¶ 16} To be clear, we make no finding that the record did not support the imposition of consecutive sentences. That question is not before us, and we acknowledge, as the trial court did, the horrific nature of Farqiri's crimes against his minor daughters. But the integrity, fairness, and public reputation of judicial proceedings require more of Ohio's trial courts than just imposing prison sentences that may be justified under the law. The public's assurance of the basic integrity and fairness of the system in this context requires trial courts to not only impose just sentences from the perspective of the victims and society at large, but to do so while making the statutorily mandated findings justifying the consecutive nature of the sentence imposed.

{¶ 17} Our system does not demand perfection. It recognizes that trial courts face demanding circumstances every day, and adjudicating crimes like the one before the trial court here is not an easy task. However, our system does require a trial court's basic

compliance with mandatory requirements under the law. Therefore, because the trial court failed to make the required consecutive sentence findings in this case, fairness demands that the trial court be given the opportunity to correct this mistake. Then, the defendant will have the opportunity to understand why he will serve his sentences consecutively rather than concurrently, if the trial court imposes consecutive sentences on Farqiri again upon remand.

{¶ 18} Judgment reversed and remanded for resentencing consistent with this opinion.

M. POWELL, J., concurs.

PIPER, P.J., dissenting.

{¶ 19} I respectfully dissent from the majority opinion because, despite its endeavor "to provide a more complete plain error analysis," see Majority at ¶ 9, it fails to employ the proper standard that has been reiterated numerous times by the Ohio Supreme Court.¹ The majority interprets plain error far too broadly.

{¶ 20} When an error occurs, an accused's failure to raise an objection in the trial court forfeits all but plain error. A forfeited error is not reversible unless it affects the outcome of the proceeding *and* reversal is necessary to correct a manifest miscarriage of justice. *State v. Rogers*, 2015-Ohio-2459, ¶ 3. The Ohio Supreme Court recently reiterated that "[t]he *defendant* bears the burden of demonstrating that a plain error affected his substantial rights." (Emphasis in original.) *State v. Khalif*, 2026-Ohio-2689, ¶ 24. "[T]he rule is discretionary; plain error should be recognized only to prevent a manifest miscarriage of justice." *Id.* at ¶ 25.

1. The majority opinion makes no mention of reversal being necessary to correct a manifest miscarriage of justice. See *State v. Jones*, 2020-Ohio-3051, ¶17. This silence is unsurprising, as Farqiri failed to raise any argument demonstrating an injustice that affected the outcome of the proceedings.

{¶ 21} In other words, the defendant must demonstrate that but for the plain error, the proceedings would have had a reasonable probability of a different outcome. *State v. West*, 2022-Ohio-1556, ¶ 36. Thus, under these principles, Farqiri bore the burden of showing (1) that the trial court's pronouncement of his sentence failed to overcome the presumption of concurrent sentences *and* (2) that his resentencing has a reasonable probability of being different. Absent that showing, Farqiri cannot demonstrate that the trial court's failure to articulate its findings more precisely was plain error. *Id.*

{¶ 22} Farqiri makes *no argument* of prejudice. He also fails to argue (and cannot demonstrate) a reasonable probability that his sentence would have been different and that reversal is necessary to correct an injustice. Even more telling, Farqiri never indicated, argued, or implied that the record fails to support consecutive sentences. See *State v. Hollon*, 2025-Ohio-2725, ¶ 48 (12th Dist.). Unless there is a structural error, no presumption of prejudice exists. Like the majority opinion, Farqiri seems to anticipate that the record will result in the same consecutive sentence upon remand and resentencing—an outcome that disproves prejudice and erodes judicial efficiency.

{¶ 23} The Ohio Supreme Court has firmly stated that "even if an accused shows that the trial court committed plain error affecting the outcome of the proceeding, an appellate court is not required to correct it; we have admonished courts to notice plain error with the utmost caution, under exceptional circumstances and *only* to prevent a manifest miscarriage of justice." (Cleaned up.) *State v. Rogers*, 2015-Ohio-2459, ¶ 23.

{¶ 24} The Ohio Supreme Court has also emphasized that it has never applied plain error to a forfeited error as being presumptively prejudicial and automatically reversible. In so doing, the Ohio Supreme Court "rejected the notion that there is any category of forfeited error that is not subject to the plain error rule's requirement of prejudicial effect on the outcome." *Id.* at ¶ 24. In adopting Chief Justice Moyer's reasoning

articulated in *State v. Perry*, 2004-Ohio-297, ¶ 20, the court in *Rogers* noted that an unwarranted expansion of Crim.R. 52(B) would thwart judicial economy by incentivizing defendants to remain silent while in the trial court, where the error could have been easily corrected upon objection. *Rogers* at ¶ 24. This would be particularly true if the error was obvious.

{¶ 25} Farqiri suggests plain error while glossing over the Ohio Supreme Court's full definition of plain error. That is, by isolating phrases within the standard of review—out of context from the full definition—Farqiri fails to appreciate the full meaning of plain error, which requires a reasonable probability of a different outcome. Farqiri simply fails to demonstrate plain error.²

{¶ 26} I agree with my colleagues' characterization that Farqiri's conduct was horrific. Over time, he engaged in a pattern of criminal behavior and sexually victimized his own minor daughters. However, I disagree with the majority's conclusion that the trial court's findings—that the sentence was necessary to protect the public from future crime and to punish the offender—could support only the purposes of felony sentencing and could not simultaneously support consecutive sentences. Such concerns were obviously within the trial court's expressed thought process.

{¶ 27} No legal authority holds that a trial court's statements in pronouncing sentence cannot support multiple statutory purposes. As this court has done previously, "we can discern from the language used that the trial court intended to and properly made findings under R.C. 2929.14(C)(4)(b)." *State v. Hollon*, 2025-Ohio-2725, ¶ 47 (12th Dist.), citing *Bonnell*, 2014-Ohio-3177, at ¶ 29.

2. While this court has previously reversed for the lack of consecutive sentence findings, based upon my review, this is the first and only time that we have implicated a plain error analysis. See e.g. *State v. Stringer-Smith*, 2026-Ohio-2976 (12th Dist.); *State v. Deaton*, 2026-Ohio-2654 (12th Dist.). It is possible that under particular facts or circumstances—and with a properly briefed argument—a plain error analysis might be appropriate. However, that is not the case here.

{¶ 28} The trial court explicitly determined on the record that Farqiri is a Tier III sex offender. One cannot overlook that this is equivalent to being considered a sexual predator. The General Assembly created Tier III to protect the public from the danger the offender poses upon release from incarceration. This heightened classification carries the most stringent consequences. This includes requirements that the offender fulfill in-person reporting obligations, register his current residence, and notify the local community, schools, and daycares of his sexual offender status—all to protect the public from the danger the offender poses. This finding of a Tier III classification clearly supports the trial court's analysis and consideration of consecutive sentence findings. To suggest otherwise contravenes the General Assembly's legislation.

{¶ 29} When the majority opinion suggests that "more" is required of Ohio's trial courts "than just imposing prison sentences that may be justified under the law"—i.e. specific reasons and explanations for the sentence—it is inadvertently advocating for judicial fact-finding not otherwise found in case law or legislation. Majority at ¶ 16. This circumvents the Ohio Supreme Court's decision in *Bonnell*, which held that a trial court "has no obligation to state reasons to support its findings." *Id.*, 2014-Ohio-3177, at syllabus. *Bonnell* states without reservation, "no statute directs a sentencing court to give or state reasons supporting imposition of consecutive sentences." *Id.* at ¶ 27. If an offender objects to the consecutive sentences, then perhaps the trial court may volunteer an explanation, but no law requires more than the initial pronouncement.

{¶ 30} The majority opinion expresses concern that Farqiri was deprived of the "opportunity to understand why he will be serving his sentences consecutively." Majority at ¶ 17. But he knew of this possibility when he pled guilty. The record shows that Farqiri discussed his guilty plea and was satisfied with his attorney. After the trial court pronounced its sentence, there is no doubt that Farqiri understood why his sentences

were to be served consecutively. No such concerns were raised at sentencing, and nothing in the record suggests otherwise.

{¶ 31} Our appellate review must determine whether the record clearly and convincingly shows that the trial court's findings ordering the consecutive sentence are unsupported. R.C. 2953.08(G)(2)(a). The trial court's "findings" flow from its analysis, which demonstrates that it considered the statutory criteria and provided the bases for its decision. *Bonnell*, 2014-Ohio-317, at ¶ 24, quoting *State v. Edmonson*, 1999-Ohio-110, ¶ 27. I do not find that the record clearly and convincingly demonstrates that the trial court's analysis is unsupported, nor do I find that the analysis clearly and convincingly reveals that the trial court failed to consider the relevant statutory criteria or provide the bases for its decision. Plain error simply does not apply.

{¶ 32} However, undeniably, the trial court failed to state its findings in its entry. I would reverse only to allow the trial court to issue a nunc pro tunc entry correcting this clerical omission. For these reasons, I respectfully dissent and would reverse only to correct the entry.

JUDGMENT ENTRY

The assignment of error properly before this court having been ruled upon, it is the order of this court that the judgment or final order appealed from be, and the same hereby is, reversed and remanded for resentencing consistent with this opinion.

It is further ordered that a mandate be sent to the Butler County Court of Common Pleas for execution upon this judgment and that a certified copy of this Opinion and Judgment Entry shall constitute the mandate pursuant to App.R. 27.

Costs to be taxed in compliance with App.R. 24.

/s/ Mike Powell, Judge

/s/ Melena S. Siebert, Judge