

IN THE COURT OF APPEALS OF OHIO  
SECOND APPELLATE DISTRICT  
GREENE COUNTY

STATE OF OHIO

Appellee

v.

ADAM R. HAYES

Appellant

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C.A. No. 2025-CA-50

Trial Court Case No. 2024 CR 0469

(Criminal Appeal from Common Pleas  
Court)

**FINAL JUDGMENT ENTRY &  
OPINION**

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Pursuant to the opinion of this court rendered on August 21, 2026, the judgment of the trial court is affirmed.

Costs to be paid as stated in App.R. 24.

Pursuant to Ohio App.R. 30(A), the clerk of the court of appeals shall immediately send a copy of the court's ruling to each party and note that action on the docket, Additionally, pursuant to App.R. 27, the clerk of the court of appeals shall send a certified copy of this judgment, which constitutes a mandate, to the clerk of the trial court and note the service on the appellate docket.

For the court,



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MICHAEL L. TUCKER, JUDGE

EPLEY, J., and HANSEMAN, J., concur.

**OPINION**  
GREENE C.A. No. 2025-CA-50

JOHNNA M. SHIA, Attorney for Appellant  
MEGAN A. HAMMOND, Attorney for Appellee

TUCKER, J.

{¶ 1} Adam R. Hayes appeals from his conviction on charges of failure to comply with an order or signal of a police officer, obstructing official business, vandalism, and felonious assault. The charges stemmed from a high-speed pursuit that occurred when a law-enforcement officer attempted to stop Hayes for speeding.

{¶ 2} Hayes alleges a violation of his right to a speedy trial. He also challenges the legal sufficiency and manifest weight of the evidence to sustain his felonious assault conviction, argues that failure to comply and obstructing official business should have merged as allied offenses, and asserts that the trial court’s consecutive-sentence findings are contrary to law and not clearly and convincingly supported by the record.

{¶ 3} For the reasons set forth below, we find Hayes’ arguments to be unpersuasive and affirm the trial court’s judgment.

**I. Background**

{¶ 4} The present appeal stems from an Ohio State Highway Patrol trooper’s attempt to stop Hayes for speeding on eastbound Route 35 in Montgomery County on June 29, 2023. After clocking Hayes traveling approximately 20 miles per hour over the speed limit, Trooper Marcello Anverse activated his cruiser’s lights and siren to make a traffic stop. Hayes refused to pull over, and Anverse pursued him. As the pursuit approached the Smithville Road exit, Trooper Jason Whitner deployed a spike strip to stop Hayes’ vehicle. Hayes swerved and avoided the spikes. Anverse continued the pursuit near the Route 42

exit in Greene County where Ohio State Highway Patrol Sergeant Joseph Griffith successfully deployed a spike strip. The tires on the passenger side of Hayes' vehicle began deflating, at which point Anverse and Whitner attempted a rolling roadblock while Trooper Jared Smith followed behind. The troopers positioned their cruisers around Hayes' vehicle and tried to stop him. Trying to split the roadblock, Hayes swerved left and hit Anverse's cruiser. He then drove across a grass median and began travelling east on westbound Route 35. Anverse also entered the westbound lanes and performed a "pit maneuver" that stopped Hayes, who exited his vehicle and fled into a tree line. Anverse pursued Hayes and tased him before successfully taking him into custody in a grassy ravine on the side of Route 35. Hayes was released from custody after spending time in the hospital.

**{¶ 5}** More than a year later, on August 16, 2024, a grand jury indicted Hayes on two counts of felonious assault, one count of failure to comply with an order or signal of a police officer, one count of obstructing official business, one count of vandalism, and one count of operating a vehicle while under the influence of alcohol or a drug of abuse ("OVI"). One felonious assault charge involved Hayes hitting Anverse's cruiser during the rolling roadblock. The other one involved Hayes swerving toward Whitner to avoid the spike strip the trooper had placed in the road. An arrest warrant was issued along with the indictment. Both documents identified Hayes' residence in Dayton. He was served with the indictment and arrested on the warrant at that address on March 27, 2025. He remained incarcerated following his arrest.

**{¶ 6}** On July 29, 2025, Hayes moved to dismiss all charges based on pre-indictment delay and speedy trial violations. The trial court overruled the motion on July 31, 2025. The jury trial on Hayes' charges began on August 4, 2025. At the outset, the State moved to dismiss the OVI charge, which the trial court sustained. The jury heard testimony from

Troopers Anverse, Whitner, and Smith. The jury found Hayes not guilty of felonious assault on Whitner but guilty of the other charges. The trial court imposed consecutive prison terms of 11 to 16.5 years for felonious assault on Anverse, 3 years for failure to comply, 1 year for obstructing official business, and 1 year for vandalism, yielding an aggregate prison term of 16 to 21.5 years. Hayes timely appealed, advancing four assignments of error.

## **II. Analysis**

**{¶ 7}** The first assignment of error states:

Hayes’ constitutionally protected right to a speedy trial and due process, as guaranteed by the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, Art. I, Sec. 10 and 16 of the Ohio Constitution, and R.C. 2945.71, have been violated.

**{¶ 8}** Although Hayes’ assignment of error references his constitutional and statutory rights to a speedy trial, his substantive argument addresses only the constitutional issue. He alleges a constitutional violation based on the nearly 14-month delay between his commission of the offenses at issue and his indictment. He also alleges a constitutional violation based on the passage of time between his indictment and trial.

**{¶ 9}** Our “[r]eview of a speedy-trial claim involves a mixed question of law and fact. Therefore, we defer to the trial court’s factual findings if they are supported by competent, credible evidence, but we review the application of the law to those facts de novo.” *State v. Long*, 2020-Ohio-5363, ¶ 15, citing *State v. Barnes*, 2008-Ohio-5472, ¶ 17 (8th Dist.). “De novo review requires an ‘independent review of the trial court’s decision without any deference to the trial court’s determination.’” *State v. Clay*, 2016-Ohio-424, ¶ 5 (2d Dist.), quoting *Jackson v. Internatl. Fiber*, 2006-Ohio-5799, ¶ 17 (2d Dist.).

{¶ 10} Upon review, we see no error in the trial court's speedy trial analysis. Regarding the nearly 14-month delay between Hayes' offenses and his indictment, pre-indictment delay "typically does not create a speedy trial issue." *State v. Johnson*, 2026-Ohio-206, ¶ 19 (2d Dist.), citing *State v. Ellis*, 1997 WL 282313, \*3 (2d Dist. May 30, 1997). In *State v. Luck*, 15 Ohio St.3d 150 (1984), the Ohio Supreme Court recognized a narrow exception where a defendant is indicted twice, the initial indictment involves the same events underlying the later indictment, "and the delay in commencing prosecution for the offenses described in the second indictment occurred after the defendant had already been indicted for an offense arising from the same sequence of events." *Id.* at 153. The present case does not involve multiple indictments, so the *Luck* exception is inapplicable.

{¶ 11} "Speedy trial issues include (1) undue and oppressive incarceration prior to trial, (2) anxiety and concern accompanying public accusation, and (3) the possibility that the long delay will impair the ability of the accused to defend himself. Preindictment delay does not affect these issues because the first two, incarceration and public accusation, do not arise, and the third is safeguarded by the statute of limitations." *Johnson* at ¶ 19, quoting *Ellis* at \*3. "Pre-indictment delay not exceeding the applicable statute of limitations is non-prejudicial absent specific evidence to the contrary." *Id.*, citing *State v. Sherrer*, 2016-Ohio-3198, ¶ 15-16 (2d Dist.).

{¶ 12} Pre-indictment delay does raise a potential Fifth Amendment due process issue. *Sherrer* at ¶ 15. "[I]n order to support a dismissal on the basis of delay in indictment, a defendant must present evidence demonstrating an actual and substantial prejudice." *State v. Carter*, 2011-Ohio-751, ¶ 15 (2d Dist.). "Then, after defendant has established actual prejudice, the State bears the burden to produce evidence demonstrating a justifiable

reason for the delay which outweighs the prejudice defendant has suffered.” *State v. Conley*, 2001 WL 958834, \*2 (2d Dist. Aug. 24, 2001).

{¶ 13} On appeal, Hayes admits his inability to demonstrate actual prejudice resulting from pre-indictment delay. He relies on *Luck*, however, for the proposition that a constitutional violation exists. According to Hayes, the State’s nearly 14-month delay was unjustified, because the State ceased its investigation before deciding to prosecute the case without obtaining any new evidence. In the portion of *Luck* on which Hayes relies, the Ohio Supreme Court examined the reasons for the State’s delay and whether it was justified only *after* first finding evidence of actual prejudice to the defendant. See *Luck*, 15 Ohio St.3d at 158. Without evidence of actual prejudice, the pre-indictment delay analysis ends. Given that pre-indictment delay resulted in no actual prejudice to Hayes, he cannot establish a due process violation.

{¶ 14} Evaluating a claim of post-indictment delay requires traditional speedy trial analysis. “To determine whether a defendant’s constitutional right to a speedy trial has been violated, a court should apply the four-factor balancing test adopted by the United States Supreme Court in *Barker v. Wingo*, 407 U.S. 514, 92 S.Ct. 2182, 33 L.Ed.2d 101 (1972).” *State v. Wagner*, 2021-Ohio-1671, ¶ 14 (2d Dist.). “The factors include: (1) the length of the delay ‘between accusation and trial’; (2) the reason for the delay; (3) the defendant’s assertion, if any, of his right to a speedy trial; and (4) the prejudice, if any, to the defendant.” *Id.*, citing *Doggett v. United States*, 505 U.S. 647, 651 (1992), and *State v. Adams*, 2015-Ohio-3954, ¶ 88.

{¶ 15} “None of the factors is controlling because a ‘balancing test necessarily compels’ a court to evaluate an alleged speedy trial violation ‘on an ad hoc basis,’ meaning that the court must consider the totality of the circumstances.” *Id.* at ¶ 15, quoting *Barker* at

530. However, “the length of the delay is a particularly important factor as it ‘is to some extent a triggering mechanism.’” *State v. Lee*, 2024-Ohio-1802, ¶ 9 (2d Dist.), quoting *Barker* at 530. “Until there is some delay which is presumptively prejudicial, there is no necessity for inquiry into the other factors that go into the balance.” *Id.*, quoting *Barker* at 530. “The length of delay becomes presumptively prejudicial as it approaches one year in length.” *Id.*, citing *Doggett* at 652, fn. 1.

{¶ 16} When evaluating the reasons for delay, “[o]nly the portion of the delay which is attributed to the government’s neglect is to be weighed in a defendant’s favor.” *State v. Triplett*, 78 Ohio St.3d 566, 569 (1997), citing *Doggett* at 658. “Deliberate dilatory acts are weighted heavily against the state, while negligent acts are weighted less heavily against the state.” *State v. Duncan*, 2021-Ohio-3229, ¶ 16 (1st Dist.), citing *Barker* at 531. “[I]ntertwined within this *Barker* analysis is whether the defendant shares any responsibility for the delay.” *State v. Rentas*, 2022-Ohio-2412, ¶ 32 (8th Dist.), citing *Triplett* at 570.

{¶ 17} Regarding a defendant’s assertion of his right to a speedy trial, “[i]t is well established under our law that the right to a speedy trial conferred by the Constitution is not self-executing.” *State v. Perkins*, 2009-Ohio-3033, ¶ 12 (2d Dist.), quoting *Partsch v. Haskins*, 175 Ohio St. 139, 140 (1963). “Affirmative action on the part of an accused in the nature of a demand to be tried is necessary to invoke the protection of the Constitution. . . . In other words, there can be no denial where there has been no demand.” *Id.*, quoting *Partsch* at 140.

{¶ 18} Finally, prejudice “should be assessed in the light of the interests of defendants which the speedy trial right was designed to protect.” *Barker*, 407 U.S. at 532. These interests are: “(i) to prevent oppressive pretrial incarceration; (ii) to minimize anxiety and concern of the accused; and (iii) to limit the possibility that the defense will be impaired.” *Id.*

The third interest is “the most serious . . . because the inability of a defendant adequately to prepare his case skews the fairness of the entire system.” *Id.*

{¶ 19} Upon review, we see no constitutional speedy trial violation. Regarding the length of the delay, the Sixth Amendment right to a speedy trial arises when a defendant is arrested or formally charged. *Betterman v. Montana*, 578 U.S. 437, 441 (2016). Here a grand jury indicted Hayes on August 16, 2024, and he was tried on August 4, 2025.

{¶ 20} In its analysis, the trial court emphasized the roughly seven-and-a-half month delay between Hayes’ August 16, 2024 indictment and his March 27, 2025 arrest on the indictment. The trial court found that this delay did not approach one year and therefore was not presumptively prejudicial. Under the Sixth Amendment, however, we must consider the entire delay between Hayes’ indictment and trial, not merely the delay between his indictment and service of the indictment. *Doggett*, 505 U.S. at 651-652 (recognizing that “to trigger a speedy trial analysis, an accused must allege that the interval between accusation and trial has crossed the threshold dividing ordinary from ‘presumptively prejudicial’ delay”). As the delay between Hayes’ indictment and trial was almost exactly one year, presumptive prejudice exists.

{¶ 21} The trial court itself proceeded to assume *arguendo* that presumptive prejudice existed, and it examined additional *Barker* factors. It found that Hayes’ assertion of his right to a speedy trial was untimely insofar as he raised the issue “only four business days before the jury trial.” The trial court also found a complete failure by Hayes to show any actual prejudice.

{¶ 22} On appeal, Hayes argues that the second *Barker* factor, the reason for the delay, weighed against the State, at least as to the seven-and-a-half month delay between his indictment and his arrest. He attributes this delay to government neglect, arguing that

there was no reason for the delay, because the prosecution knew where he lived the entire time. In fact, he asserts that he was arrested at the same address that had been listed on his indictment and warrant seven-and-a-half months earlier.

{¶ 23} Regarding the third factor, Hayes’ assertion of his right to a speedy trial, he contends he had no reason to assert the right prior to his arrest on the indictment and warrant. Until that time, he claims he was unaware of the charges and therefore could not assert his right to a speedy trial. Hayes notes that, following his arrest, he never waived his right to a speedy trial.

{¶ 24} Finally, Hayes alleges prejudice based on “a seemingly endless amount of time for the State to prepare it[s] case for trial at the cost of Hayes being under indictment for an excessive amount of time, forced to live with the anxiety of whether an arrest and prosecution were forthcoming, and affecting his ability to mount an adequate defense as evidence [became] stale and/or unavailable.” He also cites the risk of witnesses’ memories fading and witnesses being more susceptible to the State’s assertion of facts as true rather than relying on their firsthand recollection of events.

{¶ 25} Upon review, we find Hayes’ arguments unpersuasive. Although the delay at issue was marginally sufficient to establish presumptive prejudice and trigger a full *Barker* analysis, most of the delay at issue occurred between Hayes’ August 16, 2024 indictment and his March 27, 2025 arrest in connection with the indictment. He admittedly remained unaware of the indictment during this time. Under these circumstances, the length of delay is entitled to little weight. *State v. Owens*, 2010-Ohio-3353, ¶ 9-10 (2d Dist.).

{¶ 26} Concerning the reasons for the delay, the record reveals no good reason for the delay between Hayes’ indictment and his arrest. But the record also contains nothing to suggest that it resulted from anything worse than governmental negligence or oversight. In

addition, much of the delay following Hayes' arrest is attributable to motions he filed, including a motion for discovery, two motions for competency examinations, and his motion to dismiss on speedy trial grounds. The competency issue alone resulted in two examinations with expert reports and took one-and-a-half months to resolve. The trial court ultimately rejected Hayes' challenge to his competence to stand trial. Under these circumstances, the second *Barker* factor narrowly favors Hayes based on the delay between his indictment and his arrest. *Id.* at ¶ 13 (recognizing that governmental negligence "tips" in the defendant's favor but not as strongly as a deliberate attempt to delay trial).

{¶ 27} As for Hayes' assertion of his right to a speedy trial, failure to assert that right prior to his arrest cannot be held against him as he was unaware of the indictment. On appeal, however, he cites nothing establishing that he had ever affirmatively asserted his right to a speedy trial before he sought dismissal based on an alleged violation. As the trial court noted, he filed that motion virtually on the eve of trial. "It is well established under our law that the right to a speedy trial conferred by the Constitution is not self-executing. Affirmative action on the part of an accused in the nature of a demand to be tried is necessary to invoke the protection of the Constitution." *Perkins*, 2009-Ohio-3033, at ¶ 12 (2d Dist.), quoting *Partsch*, 175 Ohio St. at 140. Considering Hayes' failure to cite anything establishing invocation of the right to a speedy trial after his arrest and prior to his motion to dismiss based on a speedy trial violation, this factor weighs in favor of the State.

{¶ 28} Regarding the final factor, we see no prejudice to the interests that the constitutional speedy trial requirement is designed to protect. Hayes complains that the delay at issue gave the State "seemingly endless" trial preparation time. Factually, however, the case against him was simple, and we see no real advantage to the prosecution. Hayes also claims he was under indictment "for an excessive amount of time, forced to live with the

anxiety of whether an arrest and prosecution were forthcoming.” But prior to his arrest, Hayes was unaware of the existing indictment. He also contends the delay impacted his defense, because evidence became stale or unavailable and witnesses’ memories may have faded. Notably, however, the only trial witnesses were the three troopers involved in his pursuit. Their testimony was aided by cruiser camera and body camera recordings depicting what occurred. Hayes identifies no evidence that may have become stale or unavailable. Nor has he identified any potential witnesses whose memories may have faded. Although proof of actual or particularized prejudice is not always required to establish a constitutional speedy trial violation, cases dispensing with it typically involve delays of much longer than one year. *Johnson*, 2026-Ohio-206, at ¶ 22 (2d Dist.). Here, the post-indictment delay attributable to apparent governmental negligence was roughly seven-and-a-half months, significantly less than one year. Absent evidence of real prejudice to Hayes, we conclude that the fourth *Barker* factor weighs meaningfully in the State’s favor. Having considered each of the *Barker* factors, we see no violation of Hayes’ constitutional right to a speedy trial. His first assignment of error is overruled.

**{¶ 29}** The second assignment of error states:

The evidence presented at trial was insufficient and against the manifest weight to sustain Hayes’ convictions.

**{¶ 30}** Although Hayes’ assignment of error references “convictions,” his argument challenges only the weight and sufficiency of the State’s evidence to sustain his conviction for felonious assault on Trooper Anverse. Hayes contends his collision with the trooper’s cruiser was unintentional, meaning that he did not act with the required mental state.

**{¶ 31}** The jury found Hayes guilty of felonious assault in violation of R.C. 2903.11(A)(2) for hitting Anverse’s cruiser with his car during the pursuit on Route 35.

As relevant here, the statute provides that “[n]o person shall knowingly . . . [c]ause or attempt to cause physical harm to another . . . by means of a deadly weapon or dangerous ordnance.” Although Hayes admittedly struck Anverse’s cruiser during an attempted rolling roadblock, he claims the evidence fails to establish that he did so knowingly. Hayes asserts that his vehicle was unstable and “somewhat out of control” because he was driving on flat tires and rims after he hit a spike strip. He also claims his vehicle was pinned between two cruisers and leaning to the right when he unintentionally swerved to the left and struck Anverse’s cruiser. He claims videos and photographs admitted into evidence establish that he did not knowingly assault Anverse with his car.

**{¶ 32}** “An appellate court’s function when reviewing the sufficiency of the evidence to support a criminal conviction is to examine the evidence admitted at trial to determine whether such evidence, if believed, would convince the average mind of the defendant’s guilt beyond a reasonable doubt. The relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt.” *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus.

**{¶ 33}** Our analysis is different when reviewing a manifest-weight argument. When a conviction is challenged on appeal as being against the weight of the evidence, an appellate court must review the entire record, weigh the evidence and all reasonable inferences, consider witness credibility, and determine whether, in resolving conflicts in the evidence, the trier of fact “clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered.” *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997). A judgment should be reversed as being against the manifest weight of the

evidence “only in the exceptional case in which the evidence weighs heavily against the conviction.” *State v. Martin*, 20 Ohio App.3d 172, 175 (1st Dist. 1983).

{¶ 34} With the foregoing standards in mind, we reject Hayes’ legal sufficiency and manifest weight challenges. As noted above, his only argument is that he did not “knowingly” attempt to cause physical harm to Trooper Anverse with his car, which he acknowledges can be a deadly weapon. “A person acts knowingly, regardless of purpose, when the person is aware that the person’s conduct will probably cause a certain result or will probably be of a certain nature.” R.C. 2901.22. “A person has knowledge of circumstances when the person is aware that such circumstances probably exist.” *Id.*

{¶ 35} At trial, Anverse testified that Hayes initially succeeded in splitting a rolling roadblock by swerving left in front of the trooper’s cruiser to get around a second cruiser being driven by Trooper Whitner. Anverse testified that Hayes’ car lightly clipped the front of his cruiser at that time. Anverse did not believe this contact was intentional. When the troopers made a second attempt to establish a rolling roadblock, Hayes swerved left into the side of Anverse’s cruiser, making sustained and substantial contact that pushed the trooper’s vehicle toward the shoulder of the road. Regarding this collision, Anverse testified without objection that he believed Hayes “purposefully ran into [him] trying to split the roadblock a second time.”

{¶ 36} Key video evidence of the incident includes a cruiser camera recording from Trooper Anverse, as well as a recording from Trooper Smith, who was trailing Anverse and Whitner as they attempted to box in Hayes’ vehicle. In those videos, Hayes appears to be controlling his vehicle despite having driven over a spike strip. The videos support a finding that Hayes intentionally swerved left into Anverse’s lane the second time to escape the rolling roadblock, just as he had done moments earlier. At trial, defense counsel suggested

that Hayes could not see Anverse, who was in Hayes' "blind spot." That argument was speculative because Hayes did not testify. We note too that Anverse and Whitner had been in close pursuit of Hayes for some time. Just before the collision, Whitner was immediately in front of Hayes, who was in the right-hand lane. Anverse was in the left-hand lane trailing closely behind. Hayes could not have been unaware of the immediate presence of both cruisers with their lights and sirens activated. Even assuming, *arguendo*, that Anverse's cruiser was momentarily difficult to see as it accelerated and attempted to draw even with Hayes' car, Hayes could not have reasonably believed that the cruiser had simply disappeared. If Anverse's cruiser no longer was behind him, it had to have been beside him when he swerved left and struck it.

**{¶ 37}** Viewing the evidence in a light most favorable to the State, we find it legally sufficient to support a finding that Hayes knowingly struck Anverse's cruiser. This conclusion also is not against the weight of the evidence. The jury did not clearly lose its way and create a manifest miscarriage of justice in rejecting Hayes' argument that he did not knowingly hit Anverse's cruiser when he swerved left. The evidence does not weigh heavily against his felonious assault conviction. The second assignment of error is overruled.

**{¶ 38}** The third assignment of error states:

The trial [court] erred when it failed to merge the obstructing official business and failure to comply offenses pursuant to R.C. 2941.25.

**{¶ 39}** Hayes contends the trial court erred in failing to merge for sentencing the offenses of failure to comply with an order or signal of a police officer and obstructing official business. He asserts that they were allied offenses of similar import.

**{¶ 40}** "[W]hen determining whether offenses are allied offenses of similar import within the meaning of R.C. 2941.25, courts must ask three questions when the defendant's

conduct supports multiple offenses: (1) Were the offenses dissimilar in import or significance? (2) Were they committed separately? and (3) Were they committed with separate animus or motivation? An affirmative answer to any of the above will permit separate convictions. The conduct, the animus, and the import must all be considered.” *State v. Ruff*, 2015-Ohio-995, ¶ 31. In considering these questions, we apply plain-error review because Hayes did not raise the allied-offense issue below. “Plain error requires the existence of an obvious error and a reasonable probability that it affected the outcome of the proceeding.” *State v. Smith*, 2025-Ohio-2086, ¶ 47 (2d Dist.).

**{¶ 41}** We see no plain error in the trial court’s failure to merge the two offenses. Under R.C. 2921.331(B), failure to comply involves operating “a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person’s motor vehicle to a stop.” Under R.C. 2921.31(A), obstructing official business occurs when a defendant, “without privilege to do so and with purpose to prevent, obstruct, or delay the performance by a public official of any authorized act within the public official’s official capacity, [does] any act that hampers or impedes a public official in the performance of the public official’s lawful duties.”

**{¶ 42}** The record supports a finding that Hayes committed the offense of failure to comply when he initially refused to pull over in response to Trooper Anverse’s lights and siren. He then committed one or more distinct acts of obstructing official business by evading a spike strip deployed by Trooper Whitner, who had been called away from another traffic stop, and later exiting his car and fleeing into a tree line, which required Anverse to pursue him on foot and deploy a taser. Hayes’ act of fleeing on foot undoubtedly was committed separately. By that point, his failure to comply offense had been completed because the statute, R.C. 2921.331(B), requires a defendant to be operating a motor vehicle. See *State*

*v. Colquitt*, 2025-Ohio-2727, ¶ 39-43 (12th Dist.) (finding separate conduct and separate harm where a vehicle pursuit ended in a foot chase). Having reviewed the record, we see no obvious error in the trial court’s failure to merge the two offenses under R.C. 2941.25. The third assignment of error is overruled.

{¶ 43} The fourth assignment of error states:

**The trial court’s findings for the imposition of consecutive prison terms are contrary to law and not clearly and convincingly supported by the record.**

{¶ 44} Hayes acknowledges that the trial court made all statutory findings required to impose consecutive sentences and included them in its judgment entry. He argues, however, that the record fails to support the findings. Although the trial court relied largely on his history of criminal conduct, Hayes contends a “cold” criminal history devoid of accompanying facts and circumstances does not support finding him to be a danger to the public. He also maintains that he effectively committed a single criminal act, fleeing from police, that does not justify an aggregate prison sentence of 16 to 21.5 years. He further argues that he admitted responsibility and expressed remorse and that he had been diagnosed with mental-health issues and was off his medications at the time of his offenses.

{¶ 45} Under R.C. 2929.14(C)(4), a trial court may impose consecutive sentences if it finds that (1) consecutive sentencing is 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) at least one of the following applies:

(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.

**{¶ 46}** “[W]here a trial court properly makes the findings mandated by R.C. 2929.14(C)(4), an appellate court may not reverse the trial court’s imposition of consecutive sentences unless it first clearly and convincingly finds that the record does not support the trial court’s findings.” *State v. Withrow*, 2016-Ohio-2884, ¶ 38 (2d Dist.). Under R.C. 2953.08(F), the “record” includes, among other things, any presentence investigation (“PSI”) report or other report submitted to the trial court, the trial record in the case, and any oral or written statements made by or submitted to the trial court at the sentencing hearing. The clear-and-convincing standard requires “a firm belief or conviction as to the facts sought to be established.” *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus.

**{¶ 47}** Hayes acknowledges that the trial court made the requisite findings for consecutive sentences and included them in its judgment entry. In addition to making the first two required findings, it found both R.C. 2929.14(C)(4)(b) and (c) applicable. Hayes

argues, however, that the record does not support the trial court's findings. His entire substantive argument is as follows:

The trial court found that consecutive sentences were necessary due to Hayes' extensive criminal history, his consistent pattern of non-compliance, and his numerous opportunities for rehabilitation. However, a blanket, cold, criminal history without the facts and circumstances of each offense seems unfair to claim that one is a danger to the public and needs to be locked away as opposed to being treated and rehabilitated. Without any information underlying these misdemeanor offenses, the record failed to support the trial court's consecutive findings.

Additionally, Hayes committed one criminal act, the record demonstrated that it was one act that constituted the offenses in this case and the same record demonstrated a greater amount of mitigation to Hayes' actions and need for rehabilitation. This was one act of fleeing from the police, which led the trial court to impose the maximum sentence on all offenses and then ran them consecutively to each other for a total aggregate sentence of 16-21 ½ years. A single prison term of 11 years would have satisfied the purposes and principles of sentencing without being disproportionate.

Finally, Hayes admitted responsibility in a written letter and thanked the officers for saving his life as he was off his medications and caught his wife cheating. (PSI, p. 45, 50) The record demonstrated that Hayes was diagnosed with mental health issues and was prescribed medication. (PSI, p. 52) The record also shows that Hayes was ashamed and remorseful. (PSI, p. 48-49).

Appellant's Brief, p. 22-23.

**{¶ 48}** Contrary to the implication of Hayes' argument, his criminal history does not include only misdemeanors. His PSI report reveals an extensive criminal history that includes numerous felony convictions and prior prison terms. His adult criminal history dates to 2003 and shows an unbroken pattern of serious criminal conduct. According to the PSI, he was sentenced in 32 prior cases in North Carolina alone and placed on supervision in 37 cases in that state. The PSI reflects 40 prior felony convictions as an adult and multiple prior prison terms, including a sentence for at least one first-degree felony. Even after committing the offenses at issue here, Hayes committed additional offenses, pleading guilty to driving without a license as well as separate acts of domestic violence in two cases. His criminal history ranks among the most extensive this court has seen.

**{¶ 49}** Considering Hayes' protracted criminal history spanning more than 20 years, the trial court reasonably could have discounted or given little mitigating weight to his admission of responsibility, expression of remorse, and explanations about medications, mental-health, and his wife's alleged infidelity. The record also fails to support Hayes' claim that he committed a single criminal act in this case. Although his actions may have constituted one course of conduct, he committed multiple distinct criminal acts.

**{¶ 50}** Regarding the specific findings at issue, the record does not clearly and convincingly fail to support the trial court's findings under R.C. 2929.14(C)(4) that consecutive sentences are necessary to protect the public from future crime and to punish Hayes or that consecutive sentences are not disproportionate to the seriousness of his conduct and the danger he poses to the public. As for the final required finding under R.C. 2929.14(C)(4)(a), (b), or (c), the trial court found both subsection (b) and subsection (c) applicable. At a minimum, the record does not clearly and convincingly fail to support its finding under subsection (c) that Hayes' history of criminal conduct demonstrates the need

for consecutive sentences to protect the public from future crime. Because only one of the three findings under subsections (a), (b), and (c) was required to impose consecutive sentences, we need not address the trial court's unnecessary course-of-conduct finding under R.C. 2929.14(C)(4)(b). The fourth assignment of error is overruled.

### **III. Conclusion**

**{¶ 51}** The judgment of the Greene County Common Pleas Court is affirmed.

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EPLEY, J., and HANSEMAN, J., concur.