

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

STATE OF OHIO

Appellee

V.

TIMOTHY MEYERS, JR.

Appellant

C.A. No. 2025-CA-70

Trial Court Case Nos. 25-CR-0105; 25-CR-0106

(Criminal Appeal from Common Pleas Court)

FINAL JUDGMENT ENTRY & OPINION

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Pursuant to the opinion of this court rendered on September 18, 2026, the judgment of the trial court is affirmed in part and reversed in part, and the matter is remanded for further proceedings consistent with the opinion.

Costs to be paid as follows: 50% by appellant and 50% by appellee.

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,

Mick L. Tuck

MICHAEL L. TUCKER, JUDGE

LEWIS, P.J., and HANSEMAN, J., concur.

OPINION
CLARK C.A. No. 2025-CA-70

JEFFREY R. MCQUISTON, Attorney for Appellant
JOHN M. LINTZ, Attorney for Appellee

TUCKER, J.

{¶ 1} Timothy Meyers, Jr., appeals his convictions of aggravated burglary, aggravated robbery, having weapons while under disability, unlawful possession of dangerous ordnance, and obstructing official business, which followed his transfer from the Juvenile Division of the Clark County Court of Common Pleas to the General Division, or “adult court.” For the reasons set forth below, we affirm in part, reverse in part, and remand this matter for resentencing.

I. Factual and Procedural History

{¶ 2} This case arises from two separate home invasions that occurred in 2024. The first, which occurred on May 7, 2024, took place at the home of A.R. on Tibbets Avenue in Springfield. According to A.R., she had known Meyers since he was a young child and considered him a “nephew.” A.R. indicated that Meyers regularly visited her home, where he would play with A.R.’s son, eat, and visit with the family.

{¶ 3} On the date in question, Meyers and a friend went to A.R.’s home in the afternoon. They played with A.R.’s son and got some money from A.R.’s husband for food. Meyers was wearing black jeans, a dark sweatshirt, black “Air Force One” sneakers, and a facemask that, when pulled over the face, covered the entire face except for the eyes. According to A.R., she had seen Meyers wear the mask on prior occasions.

{¶ 4} Meyers and the friend left A.R.’s home. Approximately 20 minutes later, A.R. heard a loud banging noise. She went to her door and noticed that someone was trying to

kick it out of its frame. The door ultimately fell out of the frame and hit the floor. Two individuals entered the home and pointed guns at A.R. and her daughter. A third individual remained on the porch. A.R. immediately recognized Meyers as one of the masked intruders. Indeed, he was wearing the same clothing she had seen him wearing earlier in the day. She also recognized his eyes, which were not covered. Upon seeing A.R. and her daughter, the second intruder said, "Damn, n*****." According to A.R., she knew that individual was Meyer's friend who had been with him at her house earlier in the day. A.R. indicated that both boys were "really close" with her husband and that she was very familiar with them. The intruders then fled.

{¶ 5} The next home invasion took place on July 2, 2024. On that date, D.T. was at her home on Rice Street along with her daughter and two sons. That afternoon, a young man knocked on her door and asked for someone she did not know. D.T. indicated that no such person was at her residence, and the young man left.

{¶ 6} Approximately an hour later, D.T. heard another knock at her door. When she answered, she did not initially see anyone. However, a person carrying a gun appeared from the side of the house. D.T. was able to shut and lock the door. At the same time, someone kicked open the backdoor to the residence. D.T. and her family ran upstairs and locked themselves in a bedroom, where they made a 911 call.

{¶ 7} Springfield Police officers arrived on the scene while the intruders were still inside. The officers positioned themselves by the entrances to the residence. One of the intruders ran from the home and was immediately apprehended. He was discovered with a firearm in his possession.

{¶ 8} A second intruder also ran from the home. As he reached the corner of the residence, he dropped his firearm and ran out of his shoes. The shoes were recovered and

sampled for DNA testing. Following the DNA test, Meyers was determined to be a major contributor of the DNA found on the shoes. The firearm dropped by the second intruder was identified as a Glock 19 with a 50-round drum magazine. The gun was fitted with a “Glock switch,” which allowed for fully automatic gunfire. The State presented evidence that Meyers owned a gun with these specifications.

{¶ 9} After an investigation, Meyers was arrested and charged in juvenile court in four cases, two of which concerned the home invasions.¹ The State filed a motion to relinquish jurisdiction in accordance with Juv.R. 30. The juvenile court held a hearing and determined that probable cause existed in all four cases. The juvenile court ordered an evaluation by Dr. Daniel Hrinko to determine whether Meyers was amenable to treatment and rehabilitation within the juvenile justice system. Hrinko’s report indicated that Meyers was amenable. The State requested a second evaluation, which the court granted. That evaluation was performed by Dr. Amanda Conn, who also found Meyers was amenable to treatment and rehabilitation within the juvenile justice system.

{¶ 10} The juvenile court then conducted an amenability hearing on Meyers’s four cases. Because Meyers turned 16 before the date of the second home invasion, the juvenile court found that transfer to adult court was mandatory in the case regarding that incident. The court determined that the remaining three cases were discretionary transfer cases and that the cases should be transferred to adult court because Meyers was not amenable to treatment and rehabilitation within the juvenile system.

{¶ 11} Meyers was indicted in Clark C.P. No. 25-CR-0105—which concerned the first home invasion—on one count of aggravated burglary and one count of having a weapon

1. In two cases, Meyers was charged with offenses unrelated to the home invasions. One of those cases included two charges of felonious assault. Those cases are not part of this appeal.

under disability. The aggravated burglary count carried a three-year firearm specification. Meyers was indicted in Clark C.P. No. 25-CR-0106—which concerned the second home invasion—on one count of aggravated burglary, one count of aggravated robbery, two counts of having weapons while under disability, one count of unlawful possession of dangerous ordinance and illegal manufacture or processing of explosives, and one count of obstructing official business. The aggravated burglary and aggravated robbery counts carried three-year firearm specifications and six-year automatic-firearm specifications. The obstructing official business count carried a one-year firearm specification.

{¶ 12} The two cases were consolidated for trial. A jury trial was conducted in August 2025, and Meyers was convicted on all counts. A sentencing hearing followed. In Case No. 25-CR-0105, the trial court sentenced Meyers to 10 to 15 years for aggravated burglary, plus a consecutive 3-year term for the firearm specification. The trial court sentenced him to serve 36 months for having weapons while under disability. In Case No. 25-CR-0106, the court sentenced Meyers to 10 to 15 years for aggravated burglary, plus a consecutive 3-year term for the firearm specification and a consecutive 6-year term for the automatic-weapon specification. The trial court imposed the same sentence for the aggravated robbery conviction and associated firearm specifications. The court imposed a 36-month sentence for having weapons while under disability and a 12-month sentence for unlawful possession of dangerous ordinance. The court imposed a 12-month sentence for obstructing official business, along with a 1-year consecutive term for the attendant firearm specification. In all, Meyers was sentenced to 28 to 33 years in prison for the underlying offenses, plus 22 years of consecutive prison terms for the firearm specifications, for an aggregate sentence of 50 to 55 years.

{¶ 13} Meyers appeals.

II. Bindover

{¶ 14} The first assignment of error states:

The Juvenile Court abused its discretion when it transferred Appellant's case to the general division for adult adjudication.

{¶ 15} Meyers claims the trial court abused its discretion by permitting the transfer of Case No. 25-CR-0105 to adult court.² In support, he argues the trial court improperly “disregarded the unanimous opinions” of two psychologists and the guardian ad litem in finding that he was not amenable to rehabilitation within the juvenile system.

{¶ 16} This court has previously discussed transfer of juvenile cases to adult court. As we previously stated:

“A ‘delinquent’ child is one who violates any federal or state law or ordinance of a political subdivision, other than a juvenile traffic offender, if the act would be an offense if committed by an adult.” *Steele v. Harris*, 161 Ohio St.3d 407, 2020-Ohio-5480, 163 N.E.3d 565, ¶ 9, citing R.C. 2151.011(B)(12) and R.C. 2152.02(E)(1). Juvenile courts possess exclusive jurisdiction over children alleged to be delinquent. *Id.*, citing R.C. 2151.23(A)(1); *In re M.P.*, 124 Ohio St.3d 445, 2010-Ohio-599, 923 N.E.2d 584, ¶ 11. However, “[i]f a child is old enough and is alleged to have committed an act that would be a felony if committed by an adult, the juvenile court may transfer its jurisdiction to the appropriate adult court for criminal prosecution (‘a discretionary transfer’) or may be required to transfer jurisdiction (‘a mandatory transfer’).” *Steele* at ¶ 10. “Mandatory transfer removes discretion from judges in the

2. For the sake of clarity, the relevant juvenile cases are designated by their general division case numbers.

transfer decision in certain situations.’ . . . ‘Discretionary transfer, as its name implies, allows judges the discretion to transfer or bind over to adult court certain juveniles who do not appear to be amenable to care or rehabilitation within the juvenile system or appear to be a threat to public safety.’” *State v. D.W.*, 133 Ohio St.3d 434, 2012-Ohio-4544, 978 N.E.2d 894, ¶ 10, quoting *State v. Hanning*, 89 Ohio St.3d 86, 90, 728 N.E.2d 1059 (2000); R.C. 2152.12(A) and (B). “Whether an alleged offender is subject to mandatory or discretionary transfer depends on such factors as the nature of the offense, the age of the child, and the child’s prior criminal history, if any.” *Harris* at ¶ 10. “These transfers occur through a statutory process that ‘is generally referred to as a bindover procedure.’” *Id.*, quoting *State v. Wilson*, 73 Ohio St.3d 40, 43, 652 N.E.2d 196 (1995).

Juv.R. 30(A) provides that, upon a motion to transfer jurisdiction, the juvenile court “shall hold a preliminary hearing to determine if there is probable cause to believe that the child committed the act alleged and that the act would be an offense if committed by an adult.” If probable cause is established, the juvenile court then proceeds differently depending on whether the transfer is mandatory or discretionary. See *M.P.* at ¶ 11-12. If a child is subject to mandatory bindover, and the court finds “probable cause exists to believe that the juvenile did commit the acts charged, the only procedural step remaining is for the court to enter the order of transfer.” *Id.* at ¶ 11; Juv.R. 30(B). In contrast, in a discretionary bindover, after determining the child is at least 14 years old and that probable cause has been established, the court “shall continue the proceeding for full investigation. The investigation shall include a

mental examination of the child by a public or private agency or by a person qualified to make the examination. When the investigation is completed, an amenability hearing shall be held to determine whether to transfer jurisdiction.

The criteria for transfer shall be as provided by statute.” Juv.R. 30(C); *M.P.* at

¶ 12.

In re D.M.S., 2021-Ohio-1214, ¶ 16-17 (2d Dist.).

{¶ 17} Here, the trial court conducted a hearing and concluded that the State presented sufficient evidence to demonstrate probable cause that Meyers committed the offenses charged. Meyers does not contest these findings. Further, as conceded by Meyers, because Case No. 25-CR-0106 involved a mandatory transfer, his argument in this assignment of error is confined to Case No. 25-CR-0105, which the parties agree constituted a discretionary transfer case.

{¶ 18} In a discretionary transfer case, if the court makes a finding that probable cause exists, then it must conduct an amenability hearing. An amenability hearing “is a factual determination of whether the accused is amenable to treatment and rehabilitation within the juvenile penal system.” *State v. Hopfer*, 112 Ohio App.3d 521, 540 (2d Dist. 1996). To evaluate amenability, the juvenile court weighs the R.C. 2152.12(D) factors that support transfer with the R.C. 2152.12(E) factors that weigh against transfer. This evaluation requires the juvenile court to order, and consider the results of, an investigation into the child’s social history, education, family situation, and other relevant factors, including a mental examination.³ R.C. 2152.12(C). In making its transfer determination, the juvenile

3. Meyers was evaluated by two psychologists, Dr. Hrinko and Dr. Conn, whose findings were presented to the court. The court appointed a guardian ad litem (“GAL”) to represent Meyers, and the GAL’s opinions were also presented to the court.

court must consider all “relevant factors,” including the specific factors identified in R.C. 2152.12(D) and (E) that weigh in favor of and against a transfer. R.C. 2152.12(B)(3), (D), and (E). Discretionary transfer occurs only after a juvenile court finds the juvenile is not amenable to treatment and rehabilitation within the juvenile system.

{¶ 19} The statutory factors in favor of a transfer are as follows:

(1) The victim of the act charged suffered physical or psychological harm, or serious economic harm, as a result of the alleged act.

(2) The physical or psychological harm suffered by the victim due to the alleged act of the child was exacerbated because of the physical or psychological vulnerability or the age of the victim.

(3) The child’s relationship with the victim facilitated the act charged.

(4) The child allegedly committed the act charged for hire or as a part of a gang or other organized criminal activity.

(5) The child had a firearm on or about the child’s person or under the child’s control at the time of the act charged, the act charged is not a violation of section 2923.12 of the Revised Code, and the child, during the commission of the act charged, allegedly used or displayed the firearm, brandished the firearm, or indicated that the child possessed a firearm.

(6) At the time of the act charged, the child was awaiting adjudication or disposition as a delinquent child, was under a community control sanction, or was on parole for a prior delinquent child adjudication or conviction.

(7) The results of any previous juvenile sanctions and programs indicate that rehabilitation of the child will not occur in the juvenile system.

(8) The child is emotionally, physically, or psychologically mature enough for the transfer.

(9) There is not sufficient time to rehabilitate the child within the juvenile system.

R.C. 2152.12(D).

{¶ 20} The statutory factors weighing against a transfer are:

(1) The victim induced or facilitated the act charged.

(2) The child acted under provocation in allegedly committing the act charged.

(3) The child was not the principal actor in the act charged, or, at the time of the act charged, the child was under the negative influence or coercion of another person.

(4) The child did not cause physical harm to any person or property, or have reasonable cause to believe that harm of that nature would occur, in allegedly committing the act charged.

(5) The child previously has not been adjudicated a delinquent child.

(6) The child is not emotionally, physically, or psychologically mature enough for the transfer.

(7) The child has a mental illness or intellectual disability.

(8) There is sufficient time to rehabilitate the child within the juvenile system and the level of security available in the juvenile system provides a reasonable assurance of public safety.

R.C. 2152.12(E).

{¶ 21} In its judgment entry ordering a discretionary transfer, the juvenile court made the following findings in favor of transfer:

Each victim suffered some psychological harm as a result of the youth's alleged acts. One of the victims suffered two gunshot wounds to her leg.^[4]

In Case No. 20240336, there were children present during the Aggravated Burglary and as such the psychological harm to the child victims caused by the youth's alleged act would have been exacerbated by their young age.

In Case No. 20240336, the victims were members of the youth's extended family. In Case No. 20240570, the victim and youth have known each other since the youth was 10 years old.

There was no indication that the act charged was part of gang activity.

In Case No. 20240570, the youth had a firearm that he allegedly discharged in the incident. In Case No. 20240336, the youth allegedly brandished a firearm.

The youth was not on probation at the time of the alleged incident. However, the youth was pending a mandatory transfer to the adult division along with these cases.

The youth had been adjudicated a delinquent child for Discharge of a Firearm in a School Zone, Discharge of a Firearm over Prohibited Premises and Improper Handling of a Firearm in Motor Vehicle in April 2023. As part of the dispositional orders in that matter, the youth was committed to a

4. The case involving the gunshot wounds is a third case filed against Meyers that was a part of the probable cause and amenability hearings, but it is not a part of this appeal.

Community Controlled Facility at Oakview. He successfully completed the program with Oakview and returned to community or intensive probation in January 2024. The youth then moved to Franklin County in April 2024, and the Clark County Juvenile Court transferred his probation supervision to Franklin County Juvenile Court. On November 1, 2024, this Court received a notification that the Franklin County Juvenile Court indicated they had closed their case on May 2, 2024.

The youth was 15 years 10 months at the time of the filing of the charges.

The youth is physically mature enough for the transfer. The youth is mature emotionally and psychologically enough for the transfer.

Both Dr. Hrinko and Dr. Conn opined that there is sufficient time to rehabilitate the youth within the juvenile justice system.

(Citations omitted.) February 11, 2025 Judgment Entry, p. 2-3.

{¶ 22} The juvenile court made the following findings with regard to the factors weighing against transfer:

There is no evidence to suggest that the victims in these matters induced or facilitated the acts charged.

There is no evidence to suggest that the youth was provoked into allegedly committing the act charged.

The youth was a principal actor in each case before the Court.

The youth did cause both physical and psychological harm to the victims.

The youth has been adjudicated a delinquent child.

The youth is physically mature enough for transfer. There is evidence that the youth is emotionally or psychologically mature enough for transfer.

There was no evidence that the youth has any mental illness or is a mentally retarded person.

Dr. Hrinko and Dr. Conn opined there was sufficient time available in the juvenile justice system to rehabilitate the youth with a reasonable degree of certainty of public safety should the youth be held in a secure facility.

The GAL submitted a final report and recommended the youth remain in the juvenile justice system.

(Citations omitted.) *Id.* at 3-4.

{¶ 23} After setting forth the above-cited findings, the juvenile court's entry stated:

THE COURT FURTHER FINDS that the only factor that weighs in the youth's favor are the psychologists' amenability reports and the Guardian Ad Litem report and recommendations which indicate that there is sufficient time within the juvenile justice system to rehabilitate the youth. While the Court finds that the opinions of the psychologists and GAL to be significant and valuable, the Court also has significant concerns that the youth continues to engage in high level delinquent behavior that has resulted in great harm to his victims and if there is no commitment to change, others in the community are at risk for suffering further harm.

THE COURT FURTHER FINDS that the youth poses a high risk to public safety at this time due to his apparent willingness to handle and discharge a weapon. The youth has previously been adjudicated for a similar act of discharging a weapon and despite the placement in a community

controlled facility with intensive intervention, within less than six (6) months from his release, the youth is alleged to have committed another discharge of a firearm as well as brandishing a weapon in two other instances.

THE COURT FURTHER FINDS that after carefully weighing the factors in favor and against transfer to the adult division, that due to the history of violence, the failure of the intensive juvenile justice intervention and continued alleged violence committed by the youth, the Court has significant concerns for public safety. As such, the Court finds that there is not sufficient time in the juvenile justice system by which to provide services to the youth to rehabilitate him within a reasonable period of time and also be assured of public safety.

Id. at 4.

{¶ 24} “[A]n amenability hearing is a broad assessment of individual circumstances and is inherently individualized and fact-based.” *M.P.*, 2010-Ohio-599, at ¶ 14. “There is no requirement that every factor must be ‘resolved against the juvenile so long as the totality of the evidence supports a finding that the juvenile is not amenable to treatment.’” *State v. Bryant*, 2024-Ohio-1192, ¶ 16 (2d Dist.), quoting *State v. Haynie*, 1995 WL 55289, *5 (12th Dist.). “[A] juvenile court’s determination regarding a child’s amenability to rehabilitation in the juvenile system is reviewed by an appellate court under an abuse-of-discretion standard.” *M.P.* at ¶ 14. An abuse of discretion occurs when a trial court’s judgment is unreasonable, arbitrary, or unconscionable. *AAAA Ents., Inc. v. River Place Community Urban Redevelopment Corp.*, 50 Ohio St.3d 157, 161 (1990).

{¶ 25} After reviewing the record, we cannot conclude that the court, as claimed by Meyers, disregarded the opinions of the psychologists and the GAL. Instead, it is clear that the court considered their opinions but found Meyers’s violent history and failure to respond

to intervention outweighed their conclusion that he was amenable to rehabilitation in the juvenile system. The juvenile court's conclusion is corroborated by Dr. Hrinko's concession that Meyers posed a "high risk of danger to the community" and Dr. Conn's notes that Meyers did not comply with rules or authority figures and that he did not take accountability for his actions. This court has recognized that a juvenile court may, in its discretion, "disagree with an expert's opinion regarding amenability" (Emphasis deleted.) *State v. Ellis*, 2022-Ohio-147, ¶ 23 (2d Dist.)

{¶ 26} After viewing the record, we find no abuse of discretion due to alleged errors in the juvenile court's factfinding. The court considered the appropriate statutory factors, and the record contains "some rational and factual basis" to support its findings concerning those factors. Accordingly, the first assignment of error is overruled.

III. Sufficiency

{¶ 27} Meyers' second assignment of error is as follows:

Appellant was convicted of Aggravated Robbery without sufficient evidence of attempting or committing a theft offense as required by the statute.

{¶ 28} In this assignment of error, Meyers contends that the conviction for aggravated robbery in Case No. 25-CR-0106 must be reversed, because the State failed to present sufficient evidence to sustain a conviction for the required underlying offense of theft, as required by R.C. 2911.01.

{¶ 29} A sufficiency of the evidence challenge questions whether the State has "presented adequate evidence on each element of the offense to allow the case to go to the jury or sustain the verdict as a matter of law." *State v. Wilson*, 2009-Ohio-525, ¶ 10 (2d Dist.), citing *State v. Thompkins*, 78 Ohio St.3d 380, 386 (1997). "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.” *State v. Marshall*, 2010-Ohio-5160, ¶ 52 (2d Dist.), quoting *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus.

{¶ 30} Meyers was convicted of aggravated robbery, which is proscribed by R.C. 2911.01. That statute states, in pertinent part, that “[n]o person, in attempting or committing a theft offense, as defined in section 2913.01 of the Revised Code, or in fleeing immediately after the attempt or offense, shall . . . [h]ave a deadly weapon on or about the offender’s person or under the offender’s control and either display the weapon, brandish it, indicate that the offender possesses it, or use it.” R.C. 2911.01(A)(1). Theft is proscribed by R.C. 2913.02, which states, in pertinent part, that “[n]o person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services . . . by threat.” R.C. 2913.02(A)(4).

{¶ 31} In *State v. Dean*, 2015-Ohio-4347, ¶ 175, the Ohio Supreme Court discussed attempt as it relates to the offense of theft:

Although theft requires that the accused actually obtain or exert control over the property, attempted theft has no such requirement. R.C. 2923.02(A) defines attempt as “conduct that, if successful, would constitute or result in the offense.” “Criminal attempt” has been defined as “an act or omission constituting a substantial step in a course of conduct planned to culminate in [the actor’s] commission of the crime.” (Brackets sic.) *State v. Group*, 98 Ohio St.3d 248, 2002-Ohio-7247, 781 N.E.2d 980, ¶ 101, quoting *State v. Woods*, 48 Ohio St.2d 127, 357 N.E.2d 1059 (1976), paragraph one of the syllabus,

judgment vacated on other grounds, 438 U.S. 910, 98 S.Ct. 3133, 57 L.Ed.2d 1153 (1978). “A ‘substantial step’ requires conduct that is ‘strongly corroborative of the actor’s criminal purpose.’” *Id.*, quoting *Woods* at paragraph one of the syllabus.

{¶ 32} Meyers argues that the State failed to establish that a theft offense occurred. Highlighting D.T.’s testimony, Meyers emphasizes that the home invaders did not demand money or other items and that nothing was taken from D.T.’s home.

{¶ 33} This argument ignores other testimony and evidence provided at trial. The State presented the testimony of Brayden Boyer, who drove the getaway car during the incident. Boyer testified that he picked up Meyers, along with an individual named Kahlee Beard, a person identified as “Jayden,” and another individual named Arion Diaz. According to Boyer, the group wanted to “find some licks,” meaning they were “basically trying to find people to rob.” Specifically, he indicated that the group was looking to rob “people selling weed.” He testified that they decided to go to the residence of D.T. located at 436 Rice Street in order to get weed.

{¶ 34} According to Boyer, Meyers and Beard started arguing about who was “better at robbery,” and Meyers claimed Beard was too scared to commit a robbery. Beard retorted, “Take me over there right now.” Boyer testified that he drove toward D.T.’s residence but that he parked the car a block away from the home. The passengers in the vehicle exited the car and walked down the alley toward the home. Boyer indicated that the group had face masks and guns. Meyers had a Glock 19 with a 50-round drum and switch. Boyer testified that he saw police arrive on the scene and capture Jayden. Boyer then drove away from the scene. Boyer stated that he entered a plea agreement with the State for his involvement,

and under the agreement, he was required to testify at the trial of the other offenders. He testified that he received a prison sentence of 20 years.

{¶ 35} D.T. also testified at trial. D.T. recalled that someone knocked on her door. When she opened the door, she did not immediately see anyone. However, she then noticed somebody approaching from the side of the house with a gun in his hand. At the same time, the back door to her home was kicked open. D.T. testified that she immediately ran upstairs and hid in a bedroom with her daughter and son. She testified that she called 911. After the police arrived, D.T. went back downstairs and observed that her home had been ransacked. She testified that furniture had been moved and knocked over, that the glass in her oven was shattered, and that the kitchen cabinet doors had been opened and someone had rifled through them. She further testified that a cabinet in her bathroom had been pulled down and the vent was pulled out. D.T. said that she had a lock on her washing machine that had been broken when the intruders tried to lift the top to look into it. D.T. noted that a tote box that held a small safe had been opened.

{¶ 36} Although there is no direct evidence in this record that the group committed a theft offense, we conclude there is sufficient evidence to support a finding that the group committed an attempted theft offense. Frequently, culpable mental states are established through circumstantial evidence, which has the “same probative value as direct evidence.” *State v. Howard*, 2022-Ohio-1609, ¶ 20 (2d Dist.). Boyer’s testimony is sufficient to support a finding that the group intended to commit a theft offense at D.T.’s home. D.T.’s testimony is sufficient to support a finding that the group attempted a theft offense.

{¶ 37} From our review of the record, we conclude the State presented evidence sufficient to support a conviction for aggravated robbery based on an attempted theft offense. On this basis, we find Meyers’ argument lacks merit.

{¶ 38} The second assignment of error is overruled.

IV. Allied Offenses

{¶ 39} For his third assignment of error, Meyers asserts the following:

The trial court erred in convicting Appellant of both Aggravated Burglary and Aggravated Robbery in Case No. 25CR106 in that the crimes were allied offenses of similar import within the meaning of R.C. 2941.25(A).

{¶ 40} In Case No. 25-CR-0106, Meyers asserts the trial court erred by failing to merge his convictions for aggravated burglary and aggravated robbery.

{¶ 41} Ohio's allied-offenses statute, R.C. 2941.25, "protects against multiple punishments for the same criminal conduct and is a codification of the common law doctrine of merger." *In re B.O.J.*, 2010-Ohio-791, ¶ 21 (10th Dist.). That statute provides:

(A) Where the same conduct by defendant can be construed to constitute two or more allied offenses of similar import, the indictment or information may contain counts for all such offenses, but the defendant may be convicted of only one.

(B) Where the defendant's conduct constitutes two or more offenses of dissimilar import, or where his conduct results in two or more offenses of the same or similar kind committed separately or with a separate animus as to each, the indictment or information may contain counts for all such offenses, and the defendant may be convicted of all of them.

{¶ 42} "[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.

{¶ 43} “Offenses are committed separately within the meaning of R.C. 2941.25(B) if ‘one offense was complete before the other offense occurred, . . . notwithstanding their proximity in time and that one [offense] was committed in order to commit the other.’” *State v. Bierma*, 2024-Ohio-2089, ¶ 61 (2d Dist.), quoting *State v. Turner*, 2011-Ohio-6714, ¶ 24 (2d Dist.). “[I]n other words, ‘when one offense is completed prior to the completion of another offense during the defendant’s course of conduct, those offenses are separate acts.’” *Bierma*, quoting *State v. Mooty*, 2014-Ohio-733, ¶ 49 (2d Dist.).

{¶ 44} An appellate court applies a de novo standard of review in reviewing a trial court’s R.C. 2941.25 merger determination. *State v. Williams*, 2012-Ohio-5699, ¶ 28. “The defendant bears the burden of establishing his entitlement to the protection provided by R.C. 2941.25 against multiple punishments for a single criminal act.” *State v. Washington*, 2013-Ohio-4982, ¶ 18.

{¶ 45} The statute defining aggravated burglary provides that “[n]o person, by force, stealth, or deception, shall trespass in an occupied structure . . . when another person other than an accomplice of the offender is present, with purpose to commit in the structure . . . any criminal offense, if . . . [t]he offender has a deadly weapon or dangerous ordnance on or about the offender’s person or under the offender’s control.” R.C. 2911.11(A)(2). The statute defining aggravated robbery provides: “No person, in attempting or committing a theft offense . . . or in fleeing immediately after the attempt or offense, shall . . . [h]ave a deadly weapon on or about the offender’s person or under the offender’s control and either display

the weapon, brandish it, indicate that the offender possesses it, or use it.” R.C. 2911.01(A)(1).

{¶ 46} This court has previously “held that aggravated burglary and robbery are not allied offenses of similar import that must be merged because the burglary is complete upon entry into the victim’s home, while a robbery subsequently committed once inside constitutes a new, separate offense that was committed separately in time.” *Turner*, 2011-Ohio-6714, at ¶ 23 (2d Dist.). Accord *State v. Broomfield*, 2013-Ohio-1676, ¶ 23 (10th Dist.). “To conclude otherwise would encourage those who break into buildings to steal to proceed with the theft since the offenses would merge for purposes of conviction and sentence.” *State v. Pattson*, 2022-Ohio-150, ¶ 35 (2d Dist.), quoting *State v. Spurrier*, 2021-Ohio-1061, ¶ 68.

{¶ 47} Here, the offense of aggravated burglary was complete when Meyers and his accomplices, armed with guns, forcibly entered D.T.’s home while D.T. and her small children were in the residence. In contrast, the aggravated robbery offenses arose when the group, still armed with their guns, subsequently ransacked D.T.’s home by rifling through various cabinets and other items in an attempt to commit a theft offense.

{¶ 48} Because the two offenses were committed separately, R.C. 2941.25(B) does not require their merger for sentencing. Accordingly, the third assignment of error is overruled.

V. Firearm Specifications

{¶ 49} The fourth assignment of error provides:

The trial court’s imposition of multiple firearm specifications for aggravated burglary convictions was contrary to law and constitutes reversible error.

{¶ 50} Meyers claims the trial court erred by sentencing him to multiple consecutive prison terms for his firearm specification convictions.

{¶ 51} We begin by noting that the trial court sentenced Meyers to a three-year firearm specification under R.C. 2941.145 and a six-year firearm specification under R.C. 2941.144 on each of his aggravated burglary and aggravated robbery convictions in Case No. 25-CR-0106. This was error.

{¶ 52} With respect to the six-year firearm specification, R.C. 2941.144(B) states, “Imposition of a six-year mandatory prison term upon an offender under division (B)(1)(a)(i) of section 2929.14 of the Revised Code is precluded if a court imposes a one-year, eighteen-month, three-year, fifty-four-month, or nine-year mandatory prison term on the offender under division (B)(1)(a)(ii), (iii), (iv), (v), or (vi) of that section [relating to firearm specifications, including the three-year firearm specification under R.C. 2941.145] relative to the same felony.” Similarly, as to the three-year firearm specification, R.C. 2941.145(B) states, “Imposition of a three-year mandatory prison term upon an offender under division (B)(1)(a)(ii) of section 2929.14 of the Revised Code is precluded if a court imposes a one-year, eighteen-month, six-year, fifty-four-month, or nine-year mandatory prison term on the offender under division (B)(1)(a)(i), (iii), (iv), (v), or (vi) of that section [relating to firearm specifications, including the six-year firearm specification under R.C. 2941.144] relative to the same felony.” The plain text of these statutes expressly precludes the imposition of both three-year and six-year prison terms for firearm specifications under R.C. 2941.144 and 2941.145 that are attached to the same felony offense.

{¶ 53} Further, as conceded by the State, the trial court erred by ordering a consecutive one-year prison term for the firearm specification attached to the obstructing

official business count. We previously discussed this issue in *State v. Bryant*, 2026-Ohio-1674, ¶ 31-36, 38 (2d Dist.), stating:

“R.C. 2929.14(B)(1) governs the imposition of prison terms for firearm specifications connected to felony offenses.” *State v. Beatty*, 2024-Ohio-5684, ¶ 10. It provides that “if an offender who is convicted of or pleads guilty to a felony also is convicted of or pleads guilty to a [firearm] specification . . . the court shall impose” a prison term for that specification. R.C. 2929.14(B)(1)(a). The statute also provides that a trial court “shall not impose more than one prison term on an offender under [R.C. 2929.14(B)(1)(a)] for felonies committed as part of the same act or transaction.” R.C. 2929.14(B)(1)(b). However, under R.C. 2929.14(B)(1)(g), there is an exception to that prohibition, which provides as follows:

If an offender is convicted of or pleads guilty to two or more felonies, if one or more of those felonies are aggravated murder, murder, attempted aggravated murder, attempted murder, aggravated robbery, felonious assault, or rape, and if the offender is convicted of or pleads guilty to a specification of the type described under division (B)(1)(a) of this section in connection with two or more of the felonies, *the sentencing court shall impose on the offender the prison term specified under division (B)(1)(a) of this section for each of the two most serious specifications of which the offender is convicted or to which the offender pleads guilty and, in its discretion, also may impose on*

the offender the prison term specified under that division for any or all of the remaining specifications.

(Emphasis added.)

The foregoing statutory language indicates that “if an offender is convicted of a group of offenses and firearm specifications that were all part of the same transaction, the trial court must impose one prison term for the firearm specifications and it must not impose prison terms for any other firearm specifications.” *Beatty* at ¶ 10. “But if any of the offenses is a serious felony such as murder or felonious assault, the trial court *must* impose prison terms for two of the firearm specifications and it *may* impose prison terms for any remaining firearm specifications.” (Emphasis in original.) *Id.* “Because the trial court ‘must’ impose prison terms for two of the firearm specifications, those prison terms are ‘mandatory prison term[s],’ which are defined as ‘the term[s] in prison that must be imposed for the offenses or circumstances set forth in . . . [R.C. 2929.14(B)].’” (Bracketed text in original.) *Id.*, quoting R.C. 2929.01(X)(1). “And because the trial court ‘may’ impose prison terms for the remaining firearm specifications, those prison terms are not ‘mandatory prison term[s].’” (Bracketed text in original.) *Id.*

Under R.C. 2929.41(A), there is a general presumption that prison sentences will be served concurrently to one another. There are, however, exceptions to that presumption. As relevant here, R.C. 2929.14(C)(1)(a) provides the following exception pertaining to firearm specifications:

Subject to [R.C. 2929.14(C)(1)(b)], if a mandatory prison term is imposed upon an offender pursuant to

[R.C. 2929.14(B)(1)(a)] for having a firearm on or about the offender's person or under the offender's control while committing a felony, if a mandatory prison term is imposed upon an offender pursuant to [R.C. 2929.14(B)(1)(c)] for committing a felony specified in that division by discharging a firearm from a motor vehicle, or if both types of mandatory prison terms are imposed, the offender shall serve any mandatory prison term imposed under either division consecutively to any other mandatory prison term imposed under either division or under [R.C. 2929.14(B)(1)(d)], consecutively to and prior to any prison term imposed for the underlying felony pursuant to [R.C. 2929.14(A), (B)(2), or (B)(3)] or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

The language in R.C. 2929.14(C)(1)(a) indicates that “if a court imposes a ‘mandatory prison term’ for a firearm specification, it must be served consecutively to any other ‘mandatory prison term’ imposed for the enumerated specifications and consecutively to the prison term for the underlying felony to which the specification is attached.” *Beatty*, 2024-Ohio-5684, at ¶ 12.

In *Beatty*, the Supreme Court of Ohio found that R.C. 2929.14(C)(4)—the statute that governs consecutive sentences for *felony offenses*—does not provide an exception to the presumption of concurrent sentences in

R.C. 2929.41(A) regarding prison terms for any firearm specifications, including those that were imposed at the trial court's discretion. *Id.* at ¶ 23. Instead, the Supreme Court found that R.C. 2929.14(C)(1)(a) was “[t]he only statutory provision allowing for consecutive prison terms for firearm specifications” and that it only applied to “mandatory prison terms” and “therefore does not apply to prison terms imposed at the trial court’s discretion under R.C. 2929.14(B)(1)(g).” *Id.* at ¶ 26. As a result, the court in *Beatty* concluded that “[t]he General Assembly has not given trial courts the power to require that discretionary prison terms for firearm specifications be served consecutively, and therefore, under R.C. 2929.41(A), such prison terms ‘shall be served concurrently’ with other prison terms.” *Id.* at ¶ 27.

Beatty applied the foregoing principles to a case in which the trial court had imposed consecutive prison terms for four firearm specifications that were attached to four felonious assault counts. In accordance with R.C. 2929.14(B)(1)(g), two of those prison terms were mandatory, and two were imposed at the trial court’s discretion. The trial court, however, ran all four sentences consecutively to one another. Upon concluding that trial courts do not have the power to order discretionary prison terms for firearm specifications to be served consecutively, the Supreme Court reversed the sentence imposed by the trial court and remanded the matter with instructions for the trial court to “amend its sentence to run the two discretionary prison terms imposed for the firearm specifications concurrently with each other and with the other prison terms imposed.” *Id.* at ¶ 29.

. . .

Most recently, in [*State v. Murray*, 2025-Ohio-1485 (2d Dist.)], the trial court merged two murder and two felonious assault counts and ordered the prison sentences for all the firearm specifications attached to those counts to run consecutively to one another. In reviewing the sentence for the firearm specifications, this court found that the *Beatty* decision “requires us to reverse the trial court’s judgment with regard to the sentence imposed on Murray, because the trial court ran the sentence on the third firearm specification consecutively to rather than concurrently with the other prison terms.” *Murray* at ¶ 59. We remanded the matter for the trial court to impose a concurrent sentence on the third firearm specification. *Id.*

{¶ 54} Upon the State’s concession and in accordance with our opinions in *Bryant* and *Murray*, we conclude the trial court erred by imposing a consecutive, rather than a concurrent, sentence for the third firearm specification, which was attached to the offense of obstructing official business.

{¶ 55} Because the trial court’s sentence was contrary to law regarding the indicated firearm specification sentences, we must vacate the sentence and remand for resentencing. *State v. Marcum*, 2016-Ohio-1002, ¶ 9; *State v. Bryant*, 2022-Ohio-1878, ¶ 22. The fourth assignment of error is sustained.

VI. Excessive Sentence/Cruel and Unusual Punishment

{¶ 56} Meyers’ fifth and sixth assignments of error state:

The trial court abused its discretion by imposing an excessive sentence in light of the required proportionality determination required under R.C. 2929.14(C)(4).

The trial court imposed a cruel and unusual punishment in violation of the Eighth Amendment to the United States Constitution by sentencing Appellant, who was fifteen years old at the time of the offenses, to a prison term of fifty (50) to fifty-five (55) years.

{¶ 57} Meyers contends that the aggregate sentence imposed by the trial court is excessive and violates the prohibition against cruel and unusual punishment found in the Eighth Amendment to the United States Constitution. He notes that he will be in his mid-60s before he is eligible for release. He claims that such a long sentence is essentially the same as a life sentence.

{¶ 58} Given our disposition of the fourth assignment of error, this matter will be remanded for resentencing, so these assignments of error have been rendered moot. Accordingly, the fifth and sixth assignments of error are overruled as moot.

VII. Conclusion

{¶ 59} Meyers' fourth assignment of error being sustained, the judgment of the trial court is reversed and remanded for resentencing in accordance with this opinion. The judgment of the trial court is affirmed in all other respects.

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LEWIS, P.J., and HANSEMAN, J., concur.