[Cite as *State v. Daniels*, 2026-Ohio-4304.]

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

STATE OF OHIO	:	
	:	C.A. Nos. 30703, 30704
Appellee	:	
	:	Trial Court Case Nos. 2025 CR 02095;
v.	:	2025 CR 02341
	:	
KUNTA C. DANIELS	:	(Criminal Appeal from Common Pleas
	:	Court)
Appellant	:	
	:	**FINAL JUDGMENT ENTRY & OPINION**

. . . . . .

Pursuant to the opinion of this court rendered on October 30, 2026, the judgments of the trial court are 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,



ROBERT G. HANSEMAN, JUDGE

TUCKER, J., and HUFFMAN, J., concur.

OPINION
MONTGOMERY C.A. Nos. 30703, 30704

JOHNNA M. SHIA, Attorney for Appellant
ANDREW T. FRENCH, Attorney for Appellee

HANSEMAN, J.

{¶ 1} Kunta C. Daniels appeals from his convictions in the Montgomery County Common Pleas Court of breaking and entering, a fifth-degree felony, and burglary, a third-degree felony. Daniels claims that the trial court erred by imposing court costs without determining his present and future ability to pay. Daniels also argues that the imposition of maximum prison terms was contrary to law. For the following reasons, the judgments are affirmed.

I. Facts and Course of Proceedings

{¶ 2} On July 26, 2025, Daniels broke into a school located on West Riverview Avenue in Dayton, Ohio. The next day, Daniels broke into the school again. On August 25, 2025, Daniels broke into a garage located on the same street. As a result of his crimes, Daniels was indicted in two separate cases on September 4, 2025: 2025 CR 02095 and 2025 CR 02341. In the 2095 case, Daniels was charged with two counts of breaking and entering, fifth-degree felonies. In the 2341 case, Daniels was charged with burglary, a second-degree felony.

{¶ 3} Daniels accepted responsibility and, on September 30, 2025, pled guilty under a negotiated plea agreement with the State. In the 2095 case, Daniels pled guilty to one count of breaking and entering, and the State dismissed the second count. In the 2341 case, Daniels pled guilty to a reduced charge of burglary as a third-degree felony. There was no sentencing agreement.

{¶ 4} On November 4, 2025, the trial court sentenced Daniels to the maximum prison term on the breaking and entering offense, 12 months, and the maximum prison term on the burglary offense, 36 months, and ordered the sentences to run concurrently. In imposing the maximum terms, the trial court indicated that it considered the purposes and principles of sentencing and that Daniels had numerous theft-related prior convictions, specifically 15 misdemeanors and 18 felonies. The trial court did not impose restitution or a fine, but it did order Daniels to pay court costs. Daniels did not object to the imposition of costs and did not request that the court waive the costs because of his indigency.

{¶ 5} Daniels filed notices of appeals in both cases, and we consolidated the cases for purposes of this appeal. Daniels raises two assignments of error.

First Assignment of Error

> The trial court erred when it failed to properly consider Daniels' present and future ability to pay financial sanctions.

Second Assignment of Error

> The imposition of maximum prison sentences was not supported by the record.[1]

II. The trial court did not err when it imposed court costs.

{¶ 6} Daniels claims that the trial court's imposition of court costs, as a financial sanction, was contrary to law because the trial court failed to consider his present or future ability to pay prior to imposing the court costs. Daniels' argument is unpersuasive.

1. In Daniels' table of contents, this assignment of error appears first instead of second, and it challenges the imposition of consecutive sentences. However, the trial court did not impose consecutive sentences. We therefore assume Daniels' assignment of error as stated on page four of his brief is accurate.

{¶ 7} R.C. 2929.18(A) provides, "*[I]n addition to imposing court costs pursuant to section 2947.23 of the Revised Code*, the court imposing a sentence upon an offender for a felony may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section . . . and shall sentence the offender to make restitution pursuant to this section and section 2929.281 of the Revised Code." (Emphasis added.)

{¶ 8} The financial sanctions that are authorized by R.C. 2929.18 include restitution, fines, and reimbursement for the costs of any community control sanction, confinement, or the use of immobilizing or disabling devices, such as a certified ignition interlock device or remote alcohol monitoring device. R.C. 2929.18(A); *State v. Farler*, 2026-Ohio-1070, ¶ 54 (2d Dist.). Before imposing a financial sanction under R.C. 2929.18 or a fine under R.C. 2929.32, trial courts are required to consider the offender's present and future ability to pay. R.C. 2929.19(B)(5). However, this requirement does not apply to court costs, because court costs are not financial sanctions. *Farler* at ¶ 54; *State v. Veal*, 2013-Ohio-1577, ¶ 4 (2d Dist.), *overruled on other grounds*, *State v. Braden*, 2019-Ohio-4204. "Court costs are governed by R.C. 2947.23; they are not financial sanctions." *Veal* at ¶ 4. "Consequently, R.C. 2929.19 is inapplicable to court costs, and the trial court need not consider a defendant's ability to pay under R.C. 2929.19 prior to imposing such costs." *Id*.

{¶ 9} Instead, R.C. 2947.23 governs the imposition of court costs and requires trial courts to impose the costs of prosecution in all criminal cases. R.C. 2947.23(A)(1)(a). In pertinent part, this statute provides, "In all criminal cases, including violations of ordinances, the judge or magistrate shall include in the sentence the costs of prosecution, including any costs under section 2947.231 of the Revised Code, and render a judgment against the defendant for such costs." *Id*. The Supreme Court of Ohio has held that the imposition of

court costs is mandatory and that the statutory scheme of R.C. 2947.23 does not require a trial court to consider a defendant's present or future ability to pay. *State v. Taylor*, 2020-Ohio-3514, ¶ 1, 16.

{¶ 10} However, if a trial court has a motion to waive or modify costs, it has discretionary authority to consider a defendant's indigency status if it chooses, but it is not required to do so. *Id*. at ¶ 7. Notably, trial courts retain jurisdiction to waive, suspend, or modify the payment of the costs of prosecution at the time of sentencing or at any time thereafter. R.C. 2947.23(C).

{¶ 11} We conclude that the trial court did not err when it imposed court costs, because costs are mandatory and there is no requirement to consider a defendant's present or future ability to pay. *Farler*, 2026-Ohio-1070, at ¶ 54 (2d Dist.); *State v. Kennedy*, 2026-Ohio-2203, ¶ 79-81 (2d Dist.). Therefore, there is no basis upon which to conclude that the court's imposition of court costs was contrary to law. Daniels' first assignment of error is overruled.

III. Daniels' prison sentences are not contrary to law.

{¶ 12} In his second assignment of error, Daniels argues that the imposition of maximum sentences is contrary to law. We are unpersuaded.

{¶ 13} Appellate review of felony sentences is governed by the standards in R.C. 2953.08(G)(2). This statute provides, "The appellate court may increase, reduce, or otherwise modify a sentence that is appealed under this section or may vacate the sentence and remand the matter to the sentencing court for resentencing . . . if it clearly and convincingly finds . . . [t]hat the sentence is otherwise contrary to law." R.C. 2953.08(G)(2)(b).

{¶ 14} Clear and convincing evidence is evidence that "will provide in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established." *Cross v. Ledford*, 161 Ohio St. 469, 477 (1954). "Where the degree of proof required to sustain an issue must be clear and convincing, a reviewing court will examine the record to determine whether the trier of facts had sufficient evidence before it to satisfy the requisite degree of proof." *Id*.

{¶ 15} "The trial court has full discretion to impose any sentence within the authorized statutory range, and the court is not required to make any findings or give its reasons for imposing maximum or more than minimum sentences." *State v. King*, 2013-Ohio-2021, ¶ 45 (2d Dist.), citing *State v. Foster*, 2006-Ohio-856, paragraph seven of the syllabus. A trial court must nevertheless consider the statutory criteria that apply to every felony offense, including those set forth in R.C. 2929.11 and 2929.12. *State v. Mathis*, 2006-Ohio-855, ¶ 38. But an appellate court may not "independently weigh the evidence in the record and substitute its judgment for that of the trial court concerning the sentence that best reflects compliance with R.C. 2929.11 and 2929.12." *State v. Jones*, 2020-Ohio-6729, ¶ 42. "'The inquiry is simply whether the sentence is contrary to law.'" *State v. Jennings*, 2026-Ohio-2105, ¶ 16 (2d Dist.), quoting *State v. Bartley*, 2023-Ohio-2325, ¶ 9 (2d Dist.). "'A sentence is contrary to law when it falls outside the statutory range for the offense or if the sentencing court does not consider R.C. 2929.11 and 2929.12.'" *Id*., quoting *Bartley* at ¶ 9; *Jones* at ¶ 34, quoting *Black's Law Dictionary* (6th Ed. 1990) (The term "contrary to law" means "'in violation of statute or legal regulations at a given time.'").

{¶ 16} Daniels was convicted of one count of breaking and entering, a fifth-degree felony, and one count of burglary, a third-degree felony. The statutory prison term for a fifth-degree felony is a definite term of six, seven, eight, nine, ten, eleven, or twelve months.

R.C. 2929.14(A)(5). The trial court's imposition of a 12-month prison sentence on the breaking and entering is a definite term authorized by R.C. 2929.14(A)(5). The statutory prison term for third-degree felony burglary is a definite term of nine, twelve, eighteen, twenty-four, thirty, or thirty-six months (for a defendant lacking the requisite prior convictions for an enhanced third-degree felony sentence). R.C. 2929.14(A)(3)(b). The trial court's imposition of a 36-month prison sentence for Daniels' burglary conviction is a definite term authorized by R.C. 2929.14(A)(3)(b). Since the definite prison terms are authorized by law, the imposition of the 12-month and 36-month sentences are not contrary to law.

{¶ 17} Additionally, the imposition of the maximum sentence authorized by law does not equate to a sentence that is contrary to law. *State v. Kintz*, 2026-Ohio-1584, ¶ 16 (2d Dist.) (36-month sentence for third-degree felony not contrary to law), citing *State v. Beverly*, 2016-Ohio-8078, ¶ 11 (2d Dist.); *State v. Brown*, 2019-Ohio-3288 (2d Dist.) (maximum sentence of 12 months for fifth-degree felony not contrary to law). The record further demonstrates that the trial court considered the purposes and principles of sentencing as required by R.C. 2929.11 and 2929.12. Therefore, the sentences are not contrary to law for this reason as well. Daniels' second assignment of error is overruled.

IV. Conclusion

{¶ 18} Having overruled Daniels' two assignments of error, the judgments of the trial court are affirmed.

. . . . . .

TUCKER, J., and HUFFMAN, J., concur.