[Cite as *State v. Parson*, 2026-Ohio-4503.]

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

STATE OF OHIO	:	
	:	C.A. No. 2025-CA-30
Appellee	:	
	:	Trial Court Case Nos. 2025 CR 083;
v.	:	2025 CR 101
	:	
JAMES RONALD LEE PARSON	:	(Criminal Appeal from Common Pleas
	:	Court)
Appellant	:	
	:	**FINAL JUDGMENT ENTRY & OPINION**

. . . . . .

Pursuant to the opinion of this court rendered on November 13, 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,



ROBERT G. HANSEMAN, JUDGE

EPLEY, J., and HUFFMAN, J., concur.

OPINION
CHAMPAIGN C.A. No. 2025-CA-30

JENNIFER E. MARIETTA, Attorney for Appellant
JANE A. NAPIER, Attorney for Appellee

HANSEMAN, J.

{¶ 1} James Ronald Lee Parson appeals from convictions of aggravated trafficking in drugs and unlawful possession of dangerous ordnance with a one-year firearm specification. For the reasons discussed below, the judgment of the Champaign County Common Pleas Court is affirmed.

I. Facts and Course of Proceedings

{¶ 2} Between May 1, 2025, and July 31, 2025, Parson sold or offered to sell methamphetamine to a confidential informant on three separate occasions. This conduct led to Parson's indictment in Champaign C.P. No. 2025 CR 083 on three counts of aggravated trafficking in drugs. Two of the offenses were third-degree felonies because the methamphetamine equaled or exceeded the bulk amount but was less than five times the bulk amount.

{¶ 3} Parson's drug trafficking activities prompted law enforcement to obtain and execute a search warrant of his residence. Around August 14, 2025, law enforcement officers executed the warrant and seized methamphetamine and three separate firearms—a Kassnar sawed-off shotgun, a Remington model 522 viper .22 rifle, and a Sears and Roebuck model 101.40 B shotgun. Parson was then indicted in Champaign C.P. No. 2025 CR 101 for multiple offenses related to weapons and aggravated possession of drugs. One-year firearm specifications were attached to multiple counts of the indictment.

{¶ 4} Parson pled not guilty at his arraignment and was appointed counsel. He eventually entered into a plea agreement with the State. On October 7, 2025, Parson pled guilty to one count of aggravated trafficking in drugs, a third-degree felony, in Case No. 2025 CR 083. In Case No. 2025 CR 101, he pled guilty to one count of unlawful possession of dangerous ordnance, a fifth-degree felony, and the attached one-year firearm specification. At the time of his plea, Parson had been previously convicted of two felony drug abuse offenses—aggravated possession of drugs in 2019 and possession of drugs in 2012. As part of his plea, the trial court advised Parson that the prior convictions required a mandatory prison sentence with respect to the trafficking conviction. Parson also understood at the time of his plea that his unlawful possession of dangerous ordnance offense and firearm specification required mandatory consecutive prison terms.

{¶ 5} A presentence investigation was completed, and on November 12, 2025, Parson was sentenced to a 36-month prison term for aggravated trafficking in drugs, a 12-month prison term for unlawful possession of dangerous ordnance, and a 1-year prison term for the firearm specification. The trial court ordered each prison term to run consecutively, yielding an aggregate prison sentence of 1 year for the firearm specification followed by 48 months for the felonies.

{¶ 6} The trial court's judgment entry of conviction detailed its findings regarding the purposes and principles of felony sentencing under R.C. 2929.11 and the seriousness and recidivism factors under R.C. 2929.12. The court also included its findings under R.C. 2929.14(C)(4), indicating that consecutive sentences were necessary to protect the public from future harm or to punish the defendant and that the sentences were not disproportionate to the seriousness of Parson's conduct and the danger he posed to the public. The trial court further found that Parson's criminal history demonstrated that

consecutive sentences were necessary to protect the public from future crime. The trial court highlighted Parson's criminal history, which included four sets of juvenile adjudications for assault, burglary, and criminal damaging, and 11 sets of adult convictions for aggravated burglary, assault, theft, criminal damaging, and aggravated possession of drugs (two counts), among other charges. The court expressed concern for the public because Parson's criminal behaviors had escalated in nature. The court noted that the trafficking offenses had led to a search of Parson's residence and the seizure of three weapons on his property, one being a modified shotgun. The trial court stated, "Defendant methodically increased the severity of his criminality by selling bulk amounts of methamphetamine to third parties and prohibitively possessing modified firearms in his home." The trial court also noted that when law enforcement searched Parson's home, there were drugs and drug paraphernalia on a kitchen table, Parson's four-month-old baby was lying on a mattress on the floor, and the sawed-off shotgun was under Parson's bed.

{¶ 7} The trial court also imposed fines. Parson's aggravated trafficking in drugs conviction required a mandatory fine of at least $5,000 but not more than $10,000, and the trial court noted that an affidavit of indigency had not been filed. Despite the lack of affidavit, the trial court stated that it considered the factors outlined in *State v. Fultz*, 2019-Ohio-2593 (2d Dist.), and determined that it would not impose a mandatory fine.

{¶ 8} The trial court considered Parson's present and future ability to pay fines and imposed a $2,500.00 "ordinary" fine for the trafficking in drugs conviction and a $1,000.00 "ordinary" fine for the unlawful possession of dangerous ordnance conviction. The trial court's journalized sentencing entry stated the factors that it considered in imposing fines:

- Age: 39
- Education: GED

- Physical Health: Good
- Companion Status for Sharing Household Goods: None
- Number of Dependents: Two
- Child Support: Owed- None listed; Owes Arrearage- $1,100
- Employment Status and Pay Rate: Full-time Certified Concrete Finisher- $27/hour; $3,500/month
- Assets Held: 2008 Nissan Altima FMV - $2,500.00; 2001 camper FMV $3,500.00

{¶ 9} Parson has timely appealed and raises two assignments of error.

II. First Assignment of Error – Ineffective Assistance of Counsel

{¶ 10} In his first assignment of error, Parson claims that his trial counsel was ineffective for failing to file an affidavit of indigency. According to Parson, had an affidavit of indigency been filed, he would not have been ordered to pay any fines.

{¶ 11} It is unquestionable that the Sixth and Fourteenth Amendments to the United States Constitution guarantee all criminal defendants not only the right to counsel, but the right to effective assistance of counsel. *Strickland v. Washington*, 466 U.S. 668, 686 (1984), quoting *McMann v. Richardson*, 397 U.S. 759, 771, fn. 14 (1970).

{¶ 12} To prove an ineffective assistance of counsel claim, a defendant must show that counsel's performance fell below an objective standard of reasonable representation and that prejudice resulted from counsel's deficient performance. *State v. Bradley*, 42 Ohio St.3d 136 (1989), paragraph two of the syllabus; *Strickland* at 668; *Thornell v. Jones*, 602 U.S. 154 (2024). Judicial scrutiny of counsel's performance is highly deferential. *Strickland* at 689. In all cases, counsel is presumed to have rendered effective assistance, and courts "indulge a strong presumption that counsel's conduct falls within the wide range

of reasonable professional assistance." *Id*.

{¶ 13} To show prejudice, a defendant must prove that there exists a reasonable probability that were it not for counsel's errors, the result would have been different. *Bradley* at paragraph three of the syllabus; *Strickland* at 687. "'A reasonable probability is a probability sufficient to undermine confidence in the outcome. That requires a substantial, not just conceivable, likelihood of a different result.'" *Thornell* at 163, quoting *Cullen v. Pinholster*, 563 U.S. 170, 189 (2011). The failure to make a showing of either deficient performance or prejudice defeats a claim of ineffective assistance of counsel. *Strickland* at 687.

{¶ 14} Upon conviction of aggravated trafficking in drugs and unlawful possession of dangerous ordnance, Parson was subject to a mandatory fine and a discretionary fine, respectively. For aggravated trafficking in drugs (a third-degree felony), Parson faced a mandatory fine of $5,000 to $10,000. R.C. 2929.18(A)(3)(c) and (B)(1). For unlawful possession of dangerous ordnance (a fifth-degree felony), he faced a discretionary fine of no more than $2,500. R.C. 2929.18(A)(3)(e).

{¶ 15} As to the mandatory fine, Parson had the burden to affirmatively demonstrate that he was indigent and unable to pay, an obligation that required the trial court to consider his then-present ability and future ability to pay. *State v. Gipson*, 80 Ohio St.3d 626, 635-636 (1998). "The failure to file an affidavit of indigency may constitute ineffective assistance of counsel if the record shows a reasonable probability that, had the affidavit been filed, the court would have found the defendant indigent and relieved him of the obligation to pay the mandatory fine." *State v. Fultz*, 2019-Ohio-2593, ¶ 20 (2d Dist.).

{¶ 16} Similar principles govern the analysis of Parson's discretionary fine. Before imposing a discretionary fine, a trial court must also consider an offender's present ability

and future ability to pay the fine. R.C. 2929.19(B)(5). We have previously applied the *Strickland* standard to consider whether a trial attorney rendered ineffective assistance by failing to request waiver of a discretionary fine. *State v. Thomas*, 2021-Ohio-1746 (2d Dist.). The dispositive question is whether it was reasonably probable that the trial court would have waived the discretionary fine had trial counsel made the request. *Id.* at ¶ 10.

{¶ 17} The record of Parson's sentencing hearing and judgment entry of conviction shows that, despite the lack of an affidavit of indigency, the trial court considered Parson's present and future ability to pay the fines. The judgment entry included several facts relevant to its analysis. It noted that Parson was 39 years old, and before sentencing, he had been employed full time as a certified concrete finisher earning $3,500 per month. Parson also held assets valued at approximately $6,000.00—a vehicle and a camper. Although Parson was sentenced to a five-year term, the court found him to be in good health and employable. At the sentencing hearing, Parson indicated that he planned to obtain an HVAC certification through the prison and that, upon his release, he had employment lined up in HVAC.

{¶ 18} This case is distinguishable from *Fultz*, where we determined that trial counsel had rendered ineffective assistance by failing to file an affidavit of indigency requesting waiver of the mandatory fine for a trafficking offense. *Fultz*, 2019-Ohio-2593, at ¶ 27 (2d Dist.) In *Fultz*, the defendant had no assets, as indicated by his affidavit of indigency for purposes of receiving appointed counsel. *Id*. The defendant was 25 years old, had a sporadic work history at fast-food restaurants, left school in the ninth grade, was previously diagnosed with PTSD, was in special education classes, and was sentenced to over 12 years in prison. *Id*.

{¶ 19} Here the trial court's judgment entry cited *Fultz* and stated facts regarding Parson's age, education, assets, and work history. Unlike the defendant in *Fultz*, Parson

had assets. He had prior remunerative employment and had prospects for employment upon his release from prison. Parson cites those same factors in arguing that if his trial counsel had filed an affidavit of indigency, the trial court would not have imposed any fine. Appellant's Brief, p. 7. But the trial court considered those factors at sentencing. Parson cannot establish a reasonable probability that if trial counsel had brought those factors to the court's attention by filing an affidavit of indigency, the court would have reached a different result, because the court already considered that information. The trial court imposed a discretionary fine that was half the required minimum fine for Parson's conviction of aggravated trafficking in drugs.[1] The trial court also imposed less than half the maximum fine for unlawful possession of dangerous ordnance. Parson's first assignment of error is overruled.

III. Second Assignment of Error – 12-Month Prison Sentence for Unlawful Possession of Dangerous Ordnance Consecutive to a One-Year Firearm Specification is Contrary to Law

{¶ 20} In his second assignment of error, Parson claims that his sentence is contrary to law. He argues that the mandatory consecutive sentence for his offense of unlawful possession of dangerous ordnance duplicates the one-year prison term required for the attached firearm specification, and thus the sentence is "contrary to law." Parson further claims that his sentence is contrary to law because it violates the double jeopardy clause and constitutes multiple punishments for the same offense.

{¶ 21} Before we turn to Parson's argument, we must first address our standard of review. An appellate court is prohibited from applying an abuse of discretion standard of review when reviewing a felony sentence. R.C. 2953.08(G)(2); *State v. Marcum*, 2016-Ohio-

1. We do not consider whether the trial court properly imposed a discretionary fine instead of a mandatory fine for the aggravated trafficking in drugs offense, because neither party raised that argument on appeal.

1002, ¶ 10. An 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, only if it clearly and convincingly finds either (1) that the record does not support certain statutory findings or (2) that the sentence is otherwise contrary to law. R.C. 2953.08(G)(2)(a) and (b).

{¶ 22} R.C. 2953.08(G)(2) does not allow an appellate court to modify or vacate a sentence because it believes that the sentence is not supported by the record under R.C. 2929.11 and 2929.12. *State v. Jones*, 2020-Ohio-6729, ¶ 39. Stated another way, an appellate court may not modify or vacate a sentence by reweighing the seriousness and recidivism factors of R.C. 2929.12 or by concluding the record does not support the sentence under R.C. 2929.11 and 2929.12, because R.C. 2929.11 and 2929.12 are not among the statutes listed in R.C. 2953.08(G)(2). *State v. Webb*, 2024-Ohio-4711, ¶ 15 (2d Dist.), quoting *Jones* at ¶ 31; R.C. 2953.08(G)(2)(a).

{¶ 23} As for whether a sentence is contrary to law, the term "contrary to law" means "'in violation of statute or legal regulations at a given time.'" *Jones*, 2020-Ohio-6729, ¶ 34, quoting *Black's Law Dictionary* (6th Ed. 1990). "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." *State v. Burt*, 2025-Ohio-1758, ¶ 24 (2d Dist.), citing *State v. Bartley*, 2023-Ohio-2325, ¶ 9 (2d Dist.), citing *State v. Dorsey*, 2021-Ohio-76, ¶ 18 (2d Dist.).

{¶ 24} A brief review of the relevant sentencing statutes is in order. Parson was convicted of unlawful possession of dangerous ordnance, which prohibits a person from knowingly acquiring, having, carrying, or using any dangerous ordnance. R.C. 2923.17(A). This offense is a fifth-degree felony. R.C. 2923.17(D). Standing alone, the offense carries a possible definite prison term of six, seven, eight, nine, ten, eleven, or twelve months. R.C.

2929.14(A)(5). However, Parson was also convicted of the one-year firearm specification under R.C. 2941.141(A) that was attached to the offense. The firearm specification was for Parson's possession of a firearm on or about his person or under his control while he committed the underlying offense. *Id*.

{¶ 25} Upon conviction of a felony and a specification under R.C. 2941.141(A), a sentencing court "shall impose" a one-year sentence for the specification. R.C. 2929.14(B)(1)(a)(iii). The sentence for that firearm specification must be served consecutively to any other prison term and prior to the prison term imposed for the underlying offense. R.C. 2929.14(C)(1)(a). Additionally, because Parson had a firearm on or about his person or under his control while committing unlawful possession of dangerous ordnance, the trial court was obligated to sentence him to a prison term. "R.C. 2929.13(F)(8) requires a trial court to impose a prison sentence on an offender convicted of a felony offense that has a corresponding firearm specification." *State v. Logan*, 2025-Ohio-1772, ¶ 25.

{¶ 26} Parson claims that the prison sentence imposed on his underlying offense of unlawful possession of dangerous ordnance is contrary to law because the offense did not require a prison sentence. He invites this court to follow the dissenting opinion of Justice Jennifer Brunner in *Logan*. However, we are not authorized to disregard the majority opinion in *Logan*. *See, e.g.*, *Simon v. Zipperstein*, 32 Ohio St.3d 74, 77 (1987) ("We disapprove of the approach taken by the court of appeals and its refusal to adhere to precedent."). To the extent that Parson invites us to find that his prison sentence is contrary to law because of the imposition of a mandatory prison sentence as required by R.C. 2929.13(F)(8) and R.C. 2929.14(B)(1)(a), we are unpersuaded given the holding in *Logan*.

{¶ 27} Parson also invites us to engage in statutory interpretation; however, in our opinion, the provisions of R.C. 2929.13(F)(8) (requiring a prison sentence for the offense

underlying a firearm specification for which a sentence is imposed), R.C. 2929.14(B)(1)(a)(iii) (stating the mandatory one-year term for conviction of specification under R.C. 2941.141(A)), and R.C. 2929.14(C)(1)(a) (requiring the term for the specification to be served consecutively and prior to the underlying offense) are clear and do not need interpretation. We therefore decline to engage in a statutory analysis and do not find Parson's rule of lenity argument relevant. *See, e.g.*, *State v. Davis*, 2014-Ohio-1615, ¶ 35 ("'The rule of lenity is a principle of statutory construction that provides that a court will not interpret a criminal statute so as to increase the penalty it imposes on a defendant if the intended scope of the statute is ambiguous.' . . . The rule applies only 'to the construction of ambiguous statutes.'"), quoting *State v. Elmore*, 2009-Ohio-3478, ¶ 38, 40.

{¶ 28} We further note that the General Assembly prohibits trial courts from imposing sentences for firearm specifications attached to certain offenses. Such offenses do not implicate R.C. 2929.13(F)(8), requiring imposition of a prison sentence for an offense, because R.C. 2929.13(F)(8) is implicated only when an offender is sentenced for an attached firearm specification. R.C. 2929.14(B)(1)(e) provides:

> The court shall not impose any of the prison terms described in division (B)(1)(a) of this section [which includes the one-year firearm specification under R.C. 2941.141(A) at issue in this case] or any of the additional prison terms described in division (B)(1)(c) of this section upon an offender for a violation of section 2923.12 [carrying concealed weapons] or 2923.123 [illegal conveyance, possession, or control of deadly weapon or dangerous ordnance in courthouse] of the Revised Code. The court shall not impose any of the prison terms described in division (B)(1)(a) or (b) of this section upon an offender for a violation of section 2923.122 [illegal conveyance or possession

of deadly weapon or dangerous ordnance in school safety zone] that involves a deadly weapon that is a firearm other than a dangerous ordnance, section 2923.16 [improperly handling firearms in a motor vehicle], or section 2923.121 [illegal possession of a firearm in a liquor permit premises] of the Revised Code. The court shall not impose any of the prison terms described in division (B)(1)(a) of this section or any of the additional prison terms described in division (B)(1)(c) of this section upon an offender for a violation of section 2923.13 [having weapons while under disability] of the Revised Code unless all of the following apply:

(i) The offender previously has been convicted of aggravated murder, murder, or any felony of the first or second degree.

(ii) Less than five years have passed since the offender was released from prison or post-release control, whichever is later, for the prior offense.

{¶ 29} "Under the general rule of statutory construction *expressio unius est exclusio alterius*, the expression of one or more items of a class implies that those not identified are to be excluded." *State v. Droste*, 83 Ohio St.3d 36, 39 (1998), citing *Thomas v. Freeman*, 79 Ohio St.3d 221, 224-225 (1997), *Indep. Ins. Agents of Ohio, Inc. v. Fabe*, 63 Ohio St.3d 310, 314 (1992), and *Montgomery Cty. Bd. of Commrs. v. Pub. Util. Comm*., 28 Ohio St.3d 171 (1986). Given that the General Assembly did not include the offense of unlawful possession of dangerous ordnance among the weapons-related offenses not subject to enhancement by firearm specification, such as carrying a concealed weapon, the General Assembly intended unlawful possession of dangerous ordnance to be subject to enhancement by firearm specification. Being eligible for penalty enhancement by a firearm

specification, the offense of unlawful possession of dangerous ordnance must carry a prison term when the offender is convicted of an associated firearm specification, as required by R.C. 2929.13(F)(8).

{¶ 30} Turning now to Parson's claim that his prison sentences violate principles of double jeopardy, we note that he failed to object or raise any constitutional claims regarding double jeopardy in the trial court. Therefore, we review Parson's double jeopardy claims for plain error. *State v. Williams*, 2025-Ohio-1345, ¶ 45 (1st Dist.), citing *State v. Morgan*, 2018-Ohio-3198, ¶ 24 (2d Dist.), quoting *State v. Rogers*, 2015-Ohio-2459, ¶ 3; Crim.R. 52(B).

{¶ 31} The Fifth Amendment to the United States Constitution guarantees that no person shall "be subject for the same offence to be twice put in jeopardy of life or limb." Similarly, Article I, Section 10 of the Ohio Constitution provides that "[n]o person shall be twice put in jeopardy for the same offense." R.C. 2941.25(A) prohibits multiple convictions for "the same conduct by defendant [that] can be construed to constitute two or more allied offenses of similar import." This prohibition does not apply when "the defendant's conduct . . . results in two or more offenses of the same or similar kind committed separately or with a separate animus as to each." R.C. 2941.25(B). It is axiomatic that both constitutional and statutory protections guard against multiple punishments for the same offense. *State v. Ruff*, 2015-Ohio-995; *North Carolina v. Pearce*, 395 U.S. 711 (1969), *overruled on other grounds by Alabama v. Smith*, 490 U.S. 794 (1989).

{¶ 32} While Parson argues that the underlying offense of unlawful possession of dangerous ordnance should have merged into the firearm specification, or vice versa, and his sentence is therefore unconstitutional, the law has been settled by the Supreme Court of Ohio. A firearm specification is a penalty enhancement, not a criminal offense. *State v. Ford*, 2011-Ohio-765, paragraphs one and two of the syllabus. Therefore, the merger

doctrine does not apply, and the underlying offense is not an allied offense of the firearm specification. *Id*. Additionally, given that firearm specifications are not criminal offenses, being sentenced on a firearm specification together with the underlying offense does not constitute multiple punishments for the same conduct. *Id.*; *See also State v. Bollar*, 2022-Ohio-4370 (firearm specification must be imposed as a penalty enhancement even when the offense underlying the firearm specification merges into another offense as an allied offense.).

{¶ 33} Under Supreme Court of Ohio precedent that we are bound to follow, Parson's 12-month sentence for unlawful possession of dangerous ordnance and 1-year sentence for the firearm specification are not allied offenses of similar import or multiple punishments for the same offense. The sentences are not contrary to law, and his second assignment of error is overruled.

IV. Conclusion

{¶ 34} Having overruled Parson's two assignments of error, the judgment of the trial court is affirmed.

. . . . . .

EPLEY, J., and HUFFMAN, J., concur.