[Cite as *State v. Sims*, 2026-Ohio-4504.]

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

STATE OF OHIO	:	
	:	C.A. No. 2025-CA-72
Appellee	:	
	:	Trial Court Case No. 24-CR-831
v.	:	
	:	(Criminal Appeal from Common Pleas
DOMINIQUE M. SIMS	:	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

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

OPINION
CLARK C.A. No. 2025-CA-72

DAWN S. GARRETT, Attorney for Appellant
JOHN M. LINTZ, Attorney for Appellee

HANSEMAN, J.

{¶ 1} Dominique M. Sims appeals from his conviction in the Clark County Common Pleas Court after pleading guilty to trafficking in cocaine with a firearm specification, tampering with evidence, having weapons while under disability, and endangering children. In support of his appeal, Sims claims that the prison sentence he received for his offenses is not supported by the record and is contrary to law. Sims also claims that his trial counsel provided ineffective assistance by failing to file a motion to have the State pay for an expert to reweigh the drug evidence, and by not following through with having the drug evidence reweighed after obtaining a trial continuance for that purpose. For the reasons outlined below, the judgment of the trial court is affirmed.

Facts and Course of Proceedings

{¶ 2} On November 12, 2024, a Clark County grand jury returned an indictment charging Sims with single counts of trafficking in cocaine, possession of cocaine, illegal manufacture of drugs, tampering with evidence, having weapons while under disability, and two counts of endangering children. The counts for trafficking in cocaine and illegal manufacture of drugs each included a firearm specification and a specification that the offenses were committed in the vicinity of a school and/or juvenile. All the indicted counts included a forfeiture specification for various sums of money that were derived from or acquired through the commission of the charged offenses.

{¶ 3} Sims initially pled not guilty to all of the charged offenses and specifications.

However, on the day of his trial, Sims accepted a plea agreement that required him to plead guilty to trafficking in cocaine with the attached specifications, tampering with evidence, having weapons while under disability, and one count of endangering children. Sims also had to forfeit all the sums of money under the forfeiture specification. In exchange for Sims' guilty pleas, the State agreed to dismiss the second count of endangering children and the count for illegal manufacture of drugs. The State also agreed not to seek an indictment in Case No. 24 SPD 22127.

{¶ 4} As part of the plea agreement, the parties further agreed to have a presentence investigation ("PSI") completed prior to sentencing and to jointly recommend that the trial court impose no more than 12 years in prison. The State also agreed to remain silent during sentencing, with the exception of requesting the trial court to run any prison time imposed for the endangering children count concurrently with any other sentence imposed.

{¶ 5} During Sims' plea hearing, the trial court advised the parties that it would follow the jointly-recommended sentence and would not impose more than 12 years in prison. Because Sims' trafficking in cocaine offense was a first-degree felony, which requires indefinite sentencing under Ohio's Reagan Tokes Law, the trial court explained the indefinite sentencing scheme that applied to that offense.

{¶ 6} When advising Sims of the indefinite sentencing scheme, the trial court explained that it was required to impose an indefinite sentence that consisted of a minimum term ranging from three to eleven years in prison and a maximum term that is equal to the minimum term plus fifty percent of the minimum term. The trial court also explained that there was a rebuttable presumption that Sims would be released from prison after the expiration of the minimum term, and that said presumption could be rebutted by the Ohio Department of Rehabilitation and Correction ("ODRC") if, at a hearing, the ODRC made

certain findings about his conduct while incarcerated. In short, the trial court indicated that it was presumed Sims would be released after the minimum term expired, but that he could be held for a period not to exceed the maximum prison term if the ODRC made the requisite findings.

{¶ 7} Sims indicated that he understood all of the sentencing information provided by the trial court at the plea hearing and then entered his guilty pleas following the trial court's plea colloquy. The trial court accepted Sims' guilty pleas, ordered a PSI, and scheduled the matter for a sentencing hearing.

{¶ 8} At Sims' sentencing hearing, the trial court imposed a minimum of 10 years to a maximum of 15 years in prison for trafficking in cocaine, one year in prison for the attached firearm specification, and 12 months in prison for each of Sims' remaining three offenses. The trial court ordered the one-year prison term for the firearm specification to be served prior and consecutively to the indefinite prison term. The trial court ordered the three 12-month prison terms to be served concurrently with the indefinite prison term. Accordingly, Sims' total sentence consisted of an indefinite minimum term of 10 years in prison to a maximum term of 15 years in prison plus one-year in prison for the firearm specification, which means Sims would have to serve at least 11 years in prison. Neither Sims nor his counsel objected to the sentence.

{¶ 9} Sims now appeals from his conviction and raises two assignments of error for review.

First Assignment of Error

{¶ 10} Under his first assignment of error, Sims claims that his prison sentence is not supported by the record and is contrary to law because it exceeds the jointly-recommended sentencing cap that the trial court indicated it would follow during the plea hearing. For the

reasons discussed below, Sims' sentence is not reviewable on appeal.

{¶ 11} R.C. 2953.08 governs appeals from felony sentences. R.C. 2953.08(D)(1) provides that "[a] sentence imposed upon a defendant is not subject to review under this section if the sentence is authorized by law, has been recommended jointly by the defendant and the prosecution in the case, and is imposed by a sentencing judge." *See also State v. Underwood*, 2010-Ohio-1. A sentence is authorized by law "'only if it comports with all mandatory sentencing provisions.'" *State v. Smith*, 2020-Ohio-2854, ¶ 8 (2d Dist.), quoting *Underwood* at paragraph two of the syllabus. In his appellate brief, Sims concedes that his sentence comports with all mandatory sentencing statutes. We agree and, therefore, find that Sims' sentence is authorized by law.

{¶ 12} There is no dispute that the parties jointly recommended a sentencing cap of 12 years in prison. "We have held that an agreed-upon sentencing range qualifies as a jointly-recommended sentence." *State v. Burke*, 2021-Ohio-452, ¶ 6 (2d Dist.), citing *State v. Arnold*, 2017-Ohio-1384, ¶ 4 (2d Dist.). We have also held that "'[a]n agreement to "cap" a sentence is analogous to an agreement to impose a sentence within an agreed range for purposes of R.C. 2953.08.'" *Id*., quoting *Arnold* at ¶ 4. Accordingly, the parties' agreement to cap Sims' prison sentence at 12 years qualifies as a jointly-recommended sentence.

{¶ 13} The pivotal issue in this case, however, is whether the trial court imposed a sentence that was within the jointly-recommended sentencing cap. Sims claims that the trial court did not do this because it sentenced him to a minimum term of 10 years to a maximum term of 15 years in prison plus one year in prison for the firearm specification. According to Sims, this exceeds the 12-year sentencing cap agreed to by the parties. To address this issue, we turn to the law governing indefinite sentencing.

{¶ 14} Ohio's Reagan Tokes Law requires trial courts to impose indefinite sentences

for first and second-degree felonies that do not carry a life sentence and that are committed on or after March 22, 2019. R.C. 2929.14(A)(1)(a); R.C. 2929.144. For qualifying first-degree felonies, such as Sims' trafficking in cocaine offense, trial courts are required to sentence an offender to a stated minimum prison term of three to eleven years and a maximum prison term that is equal to the minimum term plus fifty per cent of the minimum term. *Id*. Therefore, the maximum prison term is not independently chosen by the trial court; it is statutorily derived from the minimum term. The minimum term is the offender's presumptive release date. R.C. 2967.271(B). The presumptive release date can be rebutted if the ODRC holds a hearing and makes certain findings about the offender's conduct while incarcerated. R.C. 2967.271(C). If such a rebuttal is successful, the ODRC may maintain the offender's incarceration up to the maximum term. R.C. 2967.271(D)(1).

{¶ 15} In *State v. Billman*, 2025-Ohio-211 (7th Dist.), the defendant and the State jointly recommended a prison sentence of five years for a second-degree felony offense that fell under the Reagan Tokes indefinite sentencing scheme. *Id*. at ¶ 3. At sentencing, the trial court imposed a sentence of five years, with a maximum sentence of seven-and-a-half years so as to comply with Reagan Tokes. *Id.* at ¶ 4. The defendant appealed from the sentence claiming that it was contrary to law. *Id*. at ¶ 5. On appeal, the Seventh District Court of Appeals held that, under the authority of R.C. 2953.08(D)(1), the sentence was not reviewable on appeal because the trial court had imposed a jointly-recommended sentence that was authorized by law. *Id*. at ¶ 11-13. In so holding, the Seventh District necessarily determined that the trial court had imposed the jointly-recommended sentence even though the accompanying maximum term exceeded five years.

{¶ 16} In *State v. Wilson*, 2026-Ohio-1166 (6th Dist.), the defendant and the State jointly recommended a seven-year prison sentence for a second-degree felony offense that

fell under the Reagan Tokes indefinite sentencing statute. *Id*. at ¶ 11. During sentencing, the trial court indicated that it was going to follow the parties' jointly-recommended sentence and thereafter imposed a minimum term of seven years to a maximum term of ten-and-a-half years in prison as required by the Reagan Tokes Law. *Id*. at ¶ 6 and ¶ 11. The defendant appealed from the sentence arguing that the trial court's imposition of a maximum term greater than seven years violated the plea agreement and rendered his sentence contrary to law. *Id*. at ¶ 8 and ¶ 11.

{¶ 17} On appeal, the Sixth District Court of Appeals found that "the plea agreement, the Rebuttal of Presumption of Release form, and the trial court's statements during the plea colloquy explained [that] because Wilson pleaded guilty to a second-degree felony, burglary, the trial court was required by the Reagan Tokes law to impose a minimum term and a maximum term fifty percent longer than the minimum term." *Id*. at ¶ 11, citing R.C. 2929.144. The court then followed the holding in *Billman* and found that the trial court had imposed the jointly-recommended sentence when it sentenced the defendant to a minimum term of seven years and a maximum term of ten-and-a-half years. *Id*. at ¶ 12. In so holding, the Sixth District explained that the trial court's "imposition of a ten-and-half year maximum term required by the Reagan Tokes law was simply part of the jointly recommended sentence." *Id*. at ¶ 12. Because the trial court imposed a jointly-recommended sentence that was authorized by law, the Sixth District found that R.C. 2953.08(D)(1) barred appellate review of the sentence. *Id*.

{¶ 18} Similar to *Wilson*, the trial court in this case discussed the indefinite sentencing scheme with Sims in great detail during its plea colloquy and made it clear that Sims would be receiving a sentence that consisted of a minimum and maximum prison term. Following the holdings in *Wilson* and *Billman*, we find that the trial court imposed a sentence within the

jointly-recommended sentencing cap of 12 years when it imposed a minimum prison term of 10 years with a maximum prison term of 15 years as required by the Reagan Tokes Law plus the additional one-year prison term for the firearm specification. Under this scenario, it is presumed that Sims will be released after serving 11 years in prison, which is within the 12-year sentencing cap. The Reagan Tokes Law simply required a 15-year maximum term to accompany the jointly-recommended sentence. As a result, we find that the trial court imposed the parties' jointly-recommended sentence.

{¶ 19} Sims nevertheless claims that his sentence is contrary to law because the trial court misrepresented what the maximum sentence would be during his plea hearing when it stated that it was going to follow the 12-year sentencing cap but then imposed an indefinite prison sentence of 10 to 15 years. Sims appears to take issue with the fact that the trial court did not specifically inform him that the sentencing cap would not apply to the maximum term of his indefinite sentence. While we recommend such an advisement, the fact remains that Sims' argument concerns the validity of his guilty plea, not the lawfulness of his sentence. "We have previously held that '[i]f the trial court accepts a plea agreement on the record, it must honor it. If the trial court imposes anything other than the agreed-upon sentence, the sentence is rendered void or voidable.'" (Bracketed text in original.) *State v. Anderson*, 2014-Ohio-4699, ¶ 9 (2d Dist.), quoting *State v. Arde*, 2010-Ohio-5274, ¶ 18 (2d Dist.). "This is the case because '"[w]hen the trial court promises a certain sentence, the promise becomes an inducement to enter a plea, and unless that sentence is given, the plea is not voluntary."'" (Bracketed text in original.) *Id*., quoting *State v. Layman*, 2008-Ohio-759, ¶ 15 (2d Dist.), quoting *State v. Bonnell*, 2002-Ohio-5882, ¶ 18 (12th Dist.). An involuntary plea is invalid and unenforceable. *State v. Marquardt*, 2026-Ohio-2964, ¶ 10 (2d Dist.) ("[t]o comply with due process and be constitutionally valid, a guilty plea must be entered knowingly,

intelligently, and voluntarily").

{¶ 20} In this case, Sims never moved to withdraw his guilty plea on grounds that it was involuntarily induced by an allegedly false promise, and he is not challenging the validity of his guilty plea on those grounds in this appeal. Instead of challenging his guilty plea, Sims is challenging the lawfulness of his sentence. "Appellate courts are not obligated to create, nor should they sua sponte provide, arguments on behalf of parties." *State v. Munoz*, 2023-Ohio-1895, ¶ 21 (8th Dist.), citing *State v. Quarterman*, 2014-Ohio-4034, ¶ 19. Therefore, we decline to raise an argument on Sims' behalf pertaining to his guilty plea. We will instead confine our analysis to Sims' sentence, as that is the only matter challenged under his first assignment of error.

{¶ 21} As previously discussed, the trial court imposed a sentence within the jointly-recommended sentencing cap of 12 years when it sentenced Sims to an indefinite minimum term of 10 years in prison to a maximum term of 15 years in prison plus a one-year prison term for the firearm specification that is to be served prior to the indefinite term. Again, under that scenario, it is presumed that Sims will be released from prison after 11 years. Because the jointly-recommended sentence comports with all mandatory sentencing provisions and was imposed by the trial court, the sentence is not reviewable on appeal. R.C. 2953.08(D)(1).

{¶ 22} Sims' first assignment of error is overruled.

Second Assignment of Error

{¶ 23} Under his second assignment of error, Sims claims that his trial counsel provided ineffective assistance by failing to file a motion to have the State pay for an expert to reweigh the drug evidence and by failing to follow through with reweighing the drug evidence after obtaining a trial continuance for that purpose. Sims claims that had his trial

counsel followed through with reweighing the drug evidence, he may have been subject to a lesser-degree offense and may not have pled guilty to the trafficking offense for which he was convicted.

{¶ 24} This court reviews alleged instances of ineffective assistance of trial counsel under the two-prong analysis set forth in *Strickland v. Washington*, 466 U.S. 668 (1984), which was adopted by the Supreme Court of Ohio in *State v. Bradley*, 42 Ohio St.3d 136 (1989). Pursuant to these cases, in order to prevail on an ineffective-assistance claim, Sims must show that his trial counsel rendered deficient performance and that the deficient performance prejudiced him. *Strickland* at 687; *Bradley* at paragraph two of the syllabus. The failure to make a showing of either deficient performance or prejudice defeats a claim of ineffective assistance of counsel. *Strickland* at 697.

{¶ 25} To establish deficient performance, Sims must show that his trial counsel's performance fell below an objective standard of reasonable representation. *Id*. at 688. To establish prejudice, Sims must show that there is "a reasonable probability that, but for counsel's errors, the proceeding's result would have been different." *State v. Hale*, 2008-Ohio-3426, ¶ 204, citing *Strickland* at 687-688 and *Bradley* at paragraph two of the syllabus. "'A reasonable probability is a probability sufficient to undermine confidence in the outcome.'" *Bradley* at 142, quoting *Strickland* at 694.

{¶ 26} In this case, Sims' trial counsel moved to have an expert reweigh the drug evidence, and the trial court granted the motion. Sims claims that his trial counsel was ineffective for failing to file a motion to have the State pay for the expert's services because he was indigent. The record, however, does not support a finding that Sims was indigent during the trial proceedings. Sims did not file an affidavit of indigency in the trial court, and he retained a well-known trial counsel to represent him. Moreover, during a July 2, 2025

pretrial hearing, Sims' trial counsel advised the trial court that Sims had obtained the funds to retain the expert at issue and requested a trial continuance so that they could proceed with reweighing the drug evidence.

{¶ 27} Because Sims obtained the funds to pay for the expert, it cannot be said that Sims' trial counsel performed deficiently by failing to file a motion to have the State pay for the expert's services, as there was no basis for such a motion. *State v. Binegar*, 1993 WL 524995, *6 (4th Dist. Dec. 14, 1993) ("[c]ounsel's performance is not deficient for failure to file a baseless motion"); *State v. Hopkins*, 2025-Ohio-4681, ¶ 77 (2d Dist.) (counsel did not perform deficiently "by failing to file a baseless motion"). Although the record indicates that it took Sims some time to get the funds to retain the expert, any resulting delay did not prejudice Sims since the trial court granted him a trial continuance to give him time to have the drug evidence reweighed. Accordingly, Sims' first ineffective-assistance claim fails.

{¶ 28} Sims also claims that his trial counsel was ineffective for failing to follow through with having the drug evidence reweighed. As previously discussed, Sims argues that this failure was prejudicial because, if a reweighing had been performed and showed less drugs than what he was charged with trafficking, he might have been subject to a lesser-degree offense and may not have pled guilty to the trafficking offense for which he was convicted.

{¶ 29} We note that the record does not establish whether the drug evidence was ever reweighed. Therefore, it is possible that the drugs were reweighed, that there was no discrepancy with the original weight measured, and that the parties moved forward with plea negotiations. However, even if we assume that Sims' trial counsel did not follow through with having the drug evidence reweighed, and that counsel performed deficiently in that regard, Sims has not established that there is a reasonable probability that, but for counsel's

deficient performance, the outcome of his case would have been different. Sims simply argues that he *may* not have entered his guilty plea to the trafficking charge had the reweighing occurred. Sims' argument hinges on the assumption that reweighing the drug evidence would have shown a lesser amount of drugs. That, however, is mere speculation, and "[i]t is well established that mere speculation cannot support either the deficient performance or prejudice requirement of an ineffective-assistance claim." *State v. Morgan*, 2018-Ohio-3198, ¶ 16 (2d Dist.), citing *State v. Short*, 2011-Ohio-3641, ¶ 119, citing *State v. Perez*, 2009-Ohio-6179, ¶ 217. Therefore, Sims' second ineffective-assistance claim fails as well.

{¶ 30} Sims' second assignment of error is overruled.

Conclusion

{¶ 31} Having overruled both of Sims' assignments of error, the judgment of the trial court is affirmed.

. . . . . .

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