[Cite as *State v. Baker*, 2026-Ohio-4690.]

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

STATE OF OHIO	:	
	:	C.A. No. 30766
Appellee	:	
	:	Trial Court Case No. 2025 CR 02285
v.	:	
	:	(Criminal Appeal from Common Pleas
TAYLOR MICHAEL BAKER	:	Court)
	:	
Appellant	:	**FINAL JUDGMENT ENTRY & OPINION**

. . . . . .

Pursuant to the opinion of this court rendered on November 25, 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,



MARY K. HUFFMAN, JUDGE

TUCKER, J., and EPLEY, J., concur.

OPINION
MONTGOMERY C.A. No. 30766

MICHAEL MILLS, Attorney for Appellant
ANDREW T. FRENCH, Attorney for Appellee

HUFFMAN, J.

{¶ 1} Taylor Michael Baker appeals from a judgment entry of conviction on four counts of rape of a substantially impaired victim. Because the trial court did not err in declining to merge his offenses at sentencing, we affirm the judgment of the trial court.

Facts and Procedural History

{¶ 2} On August 28, 2025, Baker was indicted on thirty two counts, including one count of aggravated burglary, seven counts of rape (by force or threat of force), seven counts of rape (substantially impaired victim), seven counts of sexual battery (substantially impaired victim), seven counts of sexual battery (unaware), one count of gross sexual imposition (by force), one count of gross sexual imposition (substantially impaired victim), and one count of theft.

{¶ 3} The victim of each offense, M.D., who resided in an apartment across the hall from Baker's step-mother, began drinking after she arrived home from work, and later invited Baker and his step-mother to continue drinking and sing karaoke at her apartment. After his step-mother left M.D.'s apartment, Baker remained. M.D. continued to drink and eventually passed out.

{¶ 4} In a Bill of Particulars filed by the State of Ohio on September 15, 2025, the sexual conduct alleged was broken down into seven separate sets of conduct, as detailed on a video recording of the events from a motion-sensing camera that was trained on the couch area in the living room of M.D.'s apartment on August 12, 2025. Pertinent to this

appeal, Count 11 was identified as conduct resulting from Baker engaging in penile-vaginal intercourse while M.D. was unconscious on her couch. Count 15 was described as Baker engaging in cunnilingus with M.D. while she was unconscious on her couch. Count 19 was described as a separate act of penile-vaginal intercourse while Baker was unconscious on her couch. Finally, Count 23 was described as a separate act of penile-vaginal intercourse while M.D. was unconscious on her couch. Baker plead guilty to Counts 11, 15, 19 and 23 of the indictment, all of which charged him with violating R.C. 2907.02(A)(1)(c), rape of a substantially impaired victim.

{¶ 5} In his sentencing memorandum, Baker's counsel acknowledged that the events supporting the four counts to which Baker entered guilty pleas were captured on a camera positioned in M.D.'s living room and pointing directly to the couch and coffee table in the apartment. Baker's counsel also provided notes from his review of the 66 total videos (in approximately 2-minute increments), which described in detail Baker's conduct and sexual actions from approximately 9:05 p.m., when M.D. passed out, until he left the apartment at 12:23 a.m.

{¶ 6} The State's sentencing memorandum details the video recordings and specifically details the recorded time on the video of each separate act of rape. The State details the following events – cunnilingus performed at 9:13 p.m., penile penetration at 9:17 p.m., again at 9:23 p.m., cunnilingus at 9:23 p.m., penile penetration at 9:30 p.m. and penile penetration at 9:43 p.m. At various times, the video recordings show Baker moving off the couch and around the room, repositioning M.B.'s body, and other conduct between each of the separate sexual acts.

{¶ 7} Disposition occurred on January 26, 2026. After considering the arguments of counsel and the video recordings of Baker's conduct admitted into evidence, the court found

that the doctrine of merger did not apply to Baker's offenses. The court sentenced Baker to a mandatory term of 7 to 10.5 years on Count 11, and 7 mandatory years on Counts 15, 19 and 23, to be served consecutively, for an aggregate term of 28 to 31.5 years. The court designated Baker a Tier III sex offender. He appealed.

Assignment of Error and Analysis

{¶ 8} Baker asserts one assignment of error. He claims that the trial court erred by failing to merge the four counts of rape at sentencing in violation of R.C. 2941.25, which codifies the doctrine of merger.

{¶ 9} The Double Jeopardy Clause of the United States Constitution protects against multiple punishments for the same criminal act. *State v.* Ruff, 2015-Ohio-995, ¶ 10. "A defendant may be indicted and tried for allied offenses of similar import, but may be sentenced on only one of the allied offenses." *State v. Whitfield,* 2010-Ohio-2, ¶ 17. When a defendant's conduct supports multiple offenses, courts must conduct an allied offenses analysis to determine if the charges merge or if the defendant may be convicted of separate crimes.

{¶ 10} A merger analysis is governed by R.C. 2941.25, which states:

> (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.

{¶ 11} "As a practical matter, when determining whether offenses are allied offenses of similar import within the meaning of R.C. 2941.25, courts must ask three questions when 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?" *State v. Earley*, 2015-Ohio-4615, ¶ 12, quoting *State v. Ruff*, 2015-Ohio-955, ¶ 31. "An affirmative answer to any one 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.

{¶ 12} "[T]wo or more offenses of dissimilar import exist within the meaning of R.C. 2941.25(B) when the defendant's conduct constitutes offenses involving separate victims or if the harm that results from each offense is separate and identifiable." *Ruff* at ¶ 23. We have previously acknowledged that distinct and different kinds of sexual activity constitute separate offenses for sentencing purposes. *State v. Gary*, 2025-Ohio-5323, ¶ 9 (2d Dist.), citing *State v. Chamberlain*, 2014-Ohio-4619, ¶ 71 (12th Dist.), citing *State v. Accorinti*, 2013-Ohio-4429 ¶ 14-16 (12th Dist.), citing *State v. Daniels*, 2013-Ohio-358, ¶ 9 (9th Dist.). In *Gary* we held that two counts of unlawful sexual conduct were separate offenses where they occurred, albeit close in time, in two separate locations and consisted of different conduct (fellatio and digital penetration in the bathroom and vaginal intercourse in the bedroom). *Gary,* at 10. *Chamberlain* held that because defendant's four rape offenses against one victim involved "distinct sexual acts, the trial court did not commit plain error by failing to merge the offenses for sentencing. *Chamberlain*, at ¶ 72. *Daniels* held that by "forcibly penetrating the victim three times in three distinct manners, Daniels separately committed three acts of rape." *Daniels* at ¶ 10, citing R.C. 2941.25(B). "We have held that

when one offense is completed prior to the completion of another offense during the defendant's course of conduct, those offenses are separate acts." *State v. Beauvais,* 2026-Ohio-3543, ¶ 14, quoting *State v. Mooty*, 2014-Ohio-722, ¶ 49, citing *State v. Turner*, 2011-Ohio-6714, ¶ 24 (2d Dist.).

{¶ 13} "We review de novo whether certain offenses should be merged as allied offenses under R.C. 2941.25." *State v. Thompson*, 2025-Ohio-2168, ¶ 71 (2d Dist.), quoting *State v. Bailey*, 2022-Ohio-4407, ¶ 6, citing *State v. Williams*, 2012-Ohio-5699, ¶ 1. "The defendant bears the burden of establishing that offenses should be merged as allied offenses." *State v. Frazier,* 2021-Ohio-4155, ¶ 20 (2d Dist.), citing *State v. Albertson*, 2021-Ohio-2125, ¶ 95 (2d Dist.).

{¶ 14} We have reviewed the video recordings admitted into evidence at Baker's sentencing. They provide strong support for the trial court's determination that the four acts of rape to which Baker entered guilty pleas were separate and distinct and each act was completed and a break of some duration occurred before the next rape occurred. The trial court specifically found that Count 11, penile-vaginal penetration occurred at approximately 9:23 p.m. in the video and was a separate crime from the act of cunnilingus. The trial court also found that Count 19, a second charge related to penile-vaginal penetration, occurred at 9:30 p.m., and Count 23, also penile-vaginal penetration, occurred at 9:43 p.m., and our review of the videos supports the trial court's findings. Because each act of rape was separate from the others, the trial court did not err in determining that separate convictions are supported.

Conclusion

{¶ 15} Because Counts 11, 15, 19 and 23 pertained to separate and distinct acts of rape for which Baker could be sentenced, the trial court did not err in declining to merge the

counts. Baker's sole assignment of error is overruled, and the judgment of the trial court is affirmed.

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TUCKER, J., and EPLEY, J., concur.