

**IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
DEFIANCE COUNTY**

STATE OF OHIO,

CASE NO. 4-26-01

PLAINTIFF-APPELLEE,

v.

LOGAN L. MALINOWSKI,

**OPINION AND
JUDGMENT ENTRY**

DEFENDANT-APPELLANT.

**Appeal from Defiance County Common Pleas Court
Trial Court No. 25 CR 15763**

Judgment Affirmed

Date of Decision: September 15, 2026

APPEARANCES:

***Henry Schaefer* for Appellant**

***Russell R. Herman* for Appellee**

MILLER, J.

{¶1} Defendant-appellant, Logan Malinowski (“Malinowski”), appeals the judgment of the Defiance County Court of Common Pleas revoking her community control and imposing a 14-month prison sentence. For the reasons that follow, we affirm.

Facts and Procedural History

{¶2} On July 16, 2025, Malinowski was indicted by a Defiance County Grand Jury on one count of assault on a police officer in violation of R.C. 2903.13(A), a felony of the fourth degree; one count of operating a vehicle under the influence of alcohol, a drug of abuse or a combination of them in violation of R.C. 4511.19(A)(1), a first-degree misdemeanor; and two counts of endangering children in violation of R.C. 2919.22(C)(1), both first-degree misdemeanors.

{¶3} Pursuant to a plea agreement, the State dismissed one count of endangering children. On August 25, 2025, Malinowski pleaded guilty to all remaining charges. On September 16, 2025, the trial court sentenced her to three years of community control with the following special conditions:

1. The Defendant shall enter no bars or taverns; the Defendant shall not consume or possess alcohol;
2. The Defendant shall not use, possess, or consume any cannabis products; and
3. The Defendant shall attend and successfully complete the SEARCH Program in Bowling Green, Ohio.

The trial court further stated in its judgment entry that “in the event of violation of Community Control, the Court may impose an eighteen (18) month basic prison term....”

{¶4} In January 2026, Malinowski tested positive for cocaine. A revocation hearing was held on March 2, 2026 during which Malinowski admitted to the violation but moved to dismiss on the grounds that the original sentencing entry was deficient pursuant to Crim.R. 32(C). The

trial court denied the motion, revoked her community control, and imposed a 14-month prison term.

{¶5} Malinowski timely appealed. She raises a single assignment of error.

Assignment of Error

The Trial Court erred as a matter of law by revoking appellant's community control and imposing a fourteen-month prison sentence when the original sentencing entry failed to properly notify appellant of a specific, definitive reserved prison term.

{¶6} In her sole assignment of error, Malinowski contends the trial court failed to clearly and definitively notify her of the exact prison term which could be imposed in the event of a violation of community control sanctions.

Standard of Review

{¶7} Under R.C. 2953.08(G)(2), an appellate court may reverse a sentence “only if it determines by clear and convincing evidence that the record does not support the trial court’s findings under relevant statutes or that the sentence is otherwise contrary to law.” *State v. Marcum*, 2016-Ohio-1002, ¶ 1. Clear and convincing evidence is that ““which will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established.”” *Id.* at ¶ 22, quoting *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of syllabus.

Analysis

R.C. 2929.19(B)(4) states in relevant part:

If the sentencing court determines at the sentencing hearing that a community control sanction should be imposed and the court is not prohibited from imposing a community control sanction, the court shall impose a community

control sanction. The court shall notify the offender that, if the conditions of the sanction are violated, [or] if the offender commits a violation of any law, . . .the court may impose a longer time under the same sanction, may impose a more restrictive sanction, or may impose a prison term on the offender and shall indicate the *range* from which the prison term may be imposed as a sanction for the violation, which shall be the *range* of prison terms for the offense that is specified pursuant to section 2929.14 of the Revised Code and as described in section 2929.15 of the Revised Code.

(Emphasis added.) “Thus, ‘[w]hen a trial court imposes community control, it must notify the offender of the possible results of a violation of those sanctions.’” *State v. Van Den Eynde*, 2023-Ohio-1790, ¶ 5 (3d Dist.), quoting *State v. Lyle*, 2014-Ohio-751, ¶ 12 (3d Dist.).

{¶8} We recently addressed this identical issue in *State v. Pruitt*, 2024-Ohio-5434 (3d Dist.) and adopt the same rational in this matter. As we explained in *Pruitt*:

“‘The court must strictly comply with this requirement and specifically state what the possible prison term may be to the offender orally at the time of sentencing.’” [*Van Den Eynde*] at ¶ 6, quoting *Lyle* at ¶ 19. Because compliance with the mandates of R.C. 2929.14(B)(4) “must come at the sentencing hearing, notification generally is deficient when the trial court’s statements to an offender of a possible term of imprisonment occurs at a plea hearing and is not repeated at a later sentencing hearing.” *State v. Brooks*, 2004-Ohio-4746, ¶ 17. Further, notification given in a trial court’s entry issued after sentencing does not comport with R.C. 2929.14(B)(4). *Id.* at ¶ 18.

“‘Compliance with R.C. 2929.19(B)(4) is a prerequisite to imposing a prison term for a community control violation.’” *Van Den Eynde* at ¶ 7, quoting *State v. Clinton*, 2022-Ohio-717, ¶ 14 (2d Dist.). “‘When a sentence fails to include a mandatory provision, such as the notification provision under R.C. 2929.19(B)(4), it may be appealed because such a sentence is “contrary to law” and is also not “authorized by law.”’” *Id.*, quoting *State v. Batty*, 2014-Ohio-2826, ¶ 22 (4th Dist.). If the trial court failed to properly notify an offender as required by R.C. 2929.14(B)(4), “the matter must be remanded to the trial court for a resentencing under that provision with a

prison term not an option.” *Brooks* at ¶ 33. “Although a prison term is not an option at the resentencing, the trial court may choose to impose a longer time under the same sanction or impose a more restrictive sanction.” *State v. Goldsberry*, 2009-Ohio-6026, ¶ 11 (3d Dist.).

“Finally, where an offender is properly notified of a specific prison term that will be imposed upon a community control violation, the offender violates the terms of his community control, and the trial judge chooses to impose a prison term, the ‘term imposed may not exceed the term the offender was originally notified of under’” R.C. 2929.19(B)(4). *Id.* at ¶ 13, quoting *Brooks* at ¶ 22. *See also Van Den Eynde* at ¶ 15 (“While changing the content of the notification from an announcement of a ‘specific prison term’ to a recitation of the ‘range of prison terms for the offense,’ the revisions to R.C. 2929.19(B)(4) have not changed the fact that a trial court is still required to ‘indicate’ the reserved prison term that may be imposed for a community control violation. R.C. 2929.19(B)(4).”). “However, ‘[b]ecause the trial judge is not required to choose a prison term under R.C. 2929.15, it follows that the trial judge could choose to impose a lesser term of imprisonment than the one the offender was informed of under’” R.C. 2929.19(B)(4). *Goldsberry* at ¶ 13, quoting *Brooks* at ¶ 22.

Pruitt at ¶ 8-10.

{¶9} Here, Malinowski contends the judgment entry’s statement that the court “*may* impose an eighteen (18) month basic prison term” is “fatally defective,” because “the language is purely speculative,” and “the trial court failed to fulfill its statutory duty to properly declare a reserved term at the original sentencing.” (Appellant’s Brief at 3). We disagree.

{¶10} Apart from the judgment entry, at the September 16, 2025 sentencing hearing, the trial court stated “if you fail to comply with your rules of community control the Court can impose any of the originally available prison terms that could be up to an eighteen-month stated prison term...” (Sept. 16, 2025 Tr. at 9). Thus, orally and in the judgment

entry of sentence, the trial court plainly and properly informed Malinowski of the maximum term that could be imposed if she broke the rules of community control. “For all revocations, the prison term must be within the range of prison terms available for the offense for which community control had been imposed *and the term may not exceed the prison term specified in the notice provided to the offender at the original sentencing hearing.*” (Emphasis added.) *State v. Monroe*, 2020-Ohio-597, ¶ 41 (2d Dist.). While the trial court could have imposed an 18-month maximum prison term, it chose to impose a lesser 14-month prison term. Accordingly, “because the trial court imposed a lesser term of imprisonment, [Malinowski’s] sentence is not contrary to law.” *Pruitt* at ¶ 13. The better practice remains for the trial court to inform an offender of the range of prison terms that could be imposed upon a violation of the terms and conditions of a community-control sanction. *See id.* (“Even though the better practice would have been for the trial court to inform Pruitt of the *range* of the prison term that could be imposed if he violated the terms and conditions of his community-control sanctions. . . .”) (Emphasis in original.) However, we find that the trial court did not err by advising Malinowski at sentencing of the maximum prison term that could be imposed for a violation of community control sanctions. We further hold that the trial court did not err in subsequently imposing a prison term less than the maximum term specified in its prior notice. We do not find Malinowski’s sentence to be contrary to law.

{¶11} Malinowski’s assignment of error is overruled.

Conclusion

{¶12} For the foregoing reasons, the appellant's assignment of error is overruled. Having found no error prejudicial to the defendant-appellant in the particulars assigned and argued, the judgment of the Defiance County Court of Common Pleas is affirmed.

Judgment Affirmed

ZIMMERMAN, P.J. and WILLAMOWSKI, J., concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this Court, the assignment of error is overruled and it is the judgment and order of this Court that the judgment of the trial court is affirmed with costs assessed to Appellant for which judgment is hereby rendered. The cause is hereby remanded to the trial court for execution of the judgment for costs.

It is further ordered that the Clerk of this Court certify a copy of this Court's judgment entry and opinion to the trial court as the mandate prescribed by App.R. 27; and serve a copy of this Court's judgment entry and opinion on each party to the proceedings and note the date of service in the docket. See App.R. 30.

Mark C. Miller, Judge

William R. Zimmerman, Judge

John R. Willamowski, Judge

DATED:
/jlm