

IN THE COURT OF APPEALS OF OHIO  
THIRD APPELLATE DISTRICT  
ALLEN COUNTY

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STATE OF OHIO,

PLAINTIFF-APPELLEE,

CASE NO. 1-25-52

v.

STEVEN WILLIAMS,

DEFENDANT-APPELLANT.

OPINION AND  
JUDGMENT ENTRY

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STATE OF OHIO,

PLAINTIFF-APPELLEE,

CASE NO. 1-25-53

v.

STEVEN WILLIAMS,

DEFENDANT-APPELLANT.

OPINION AND  
JUDGMENT ENTRY

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Appeals from Allen County Common Pleas Court  
Trial Court No. CR2025 0076

App. No. 1-25-52: Judgment Affirmed in Part,  
Reversed in Part and Cause Remanded  
App. No. 1-25-53: Dismissed

Date of Decision: October 13, 2026

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APPEARANCES:

*Timothy B. Hackett* for Appellant

*John R. Willamowski, Jr.* for Appellee

**ZIMMERMAN, P.J.**

{¶1} Defendant-appellant, Steven Williams (“Williams”), appeals the July 14, 2025 judgment entry of sentence of the Allen County Court of Common Pleas.<sup>1</sup> For the reasons that follow, we affirm in part and reverse in part.

{¶2} This case stems from a February 10, 2025 incident where Williams allegedly entered the apartment of the victim, an acquaintance, and stole approximately \$600 in cash. Eight days prior to the incident, the two had a falling out after smoking crack cocaine together, prompting the victim to hide her cash out of fear that Williams might return. Then, in the early morning hours of February 10, Williams broke into the victim’s apartment, covered her head with a blanket, physically restrained her, and took the hidden money.

{¶3} On April 17, 2025, the Allen County Grand Jury indicted Williams on Count One of aggravated burglary in violation of R.C. 2911.11(A)(1), (B), a first-degree felony, Count Two of robbery in violation of R.C. 2911.02(A)(2), (B), a second-degree felony, and Count Three of abduction in violation of R.C. 2905.02(A)(2), (C), a third-degree felony. The indictment included a repeat violent offender (“RVO”) specification under R.C. 2941.149(A) as to Counts One and Two. On April 25, 2025, Williams filed a written plea of not guilty.

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<sup>1</sup> Two appellate case numbers were inadvertently assigned to this case: 1-25-52 and 1-25-53. Because case number 1-25-53 is unnecessary and duplicative, we dismiss that case and proceed to address the appeal under case number 1-25-52.

{¶4} On May 23, 2025, the State filed a notice of its intent to introduce evidence pursuant to Evid.R. 404(B), specifically seeking to introduce evidence regarding Williams's prior visit to the victim's apartment on February 1 and 2, 2025, to establish his motive, opportunity, and knowledge that the victim had money.

{¶5} The case proceeded to a jury trial on May 27 and 28, 2025, during which Williams represented himself. On May 28, 2025, the jury found Williams guilty of all three counts in the indictment.

{¶6} On July 14, 2025, after determining that Williams was a repeat violent offender as alleged in the specifications, the trial court sentenced Williams to a minimum term of 9 years to a maximum term of 13 1/2 years in prison on Count One; a minimum term of 8 years to a maximum term of 12 years in prison on Count Two; 36 months in prison on Count Three; and 5 years in prison on the RVO specification under Count Two. The trial court ordered Williams to serve the sentences consecutively for an aggregate prison term of 25 to 29 1/2 years.

{¶7} After being granted leave to file a delayed appeal, Williams filed a notice of appeal on September 22, 2025. He raises three assignments of error for our review.

### **First Assignment of Error**

**The trial court violated Mr. Williams's constitutional right to counsel when it accepted his attempted waiver of counsel without first advising him of the specific charges and offenses and the range of potential penalties, including the repeat violent offender specifications and penalty-enhancements, in violation of Crim.R.**

**44, the U.S. Const., amends. VI and XIV, and Ohio Const., art. I, § 10. (A-1; Tr. 7-20; 20-394.).**

{¶8} In his first assignment of error, Williams argues that the trial court erred by accepting his waiver of counsel and permitting him to represent himself. Specifically, Williams contends that his waiver was not knowing, intelligent, or voluntary because the trial court failed to advise him of the specific charges, the statutory offenses included within them, and the full range of allowable punishments, including the repeat violent offender specifications.

*Standard of Review*

{¶9} “We review de novo whether a defendant knowingly, voluntarily, and intelligently waived his right to counsel.” *State v. Godley*, 2018-Ohio-4253, ¶ 9 (3d Dist.). “De novo review is independent, without deference to the lower court’s decision.” *State v. Hudson*, 2013-Ohio-647, ¶ 27 (3d Dist.).

*Analysis*

{¶10} “Pursuant to the Sixth and Fourteenth Amendments to the United States Constitution and Section 10, Article I of the Ohio Constitution, criminal defendants have the right to assistance of counsel for their defense.” *State v. Conard*, 2024-Ohio-1906, ¶ 11 (2d Dist.). “Nevertheless, a defendant may waive his or her right to counsel and proceed pro se so long as that waiver is made voluntarily, knowingly, and intelligently.” *State v. Newman*, 2020-Ohio-5087, ¶ 17 (8th Dist.). *See also State v. Petaway*, 2006-Ohio-2941, ¶ 8 (3d Dist.) (“While a

defendant has a right to counsel, the defendant may also waive that right when the waiver is voluntary, knowing, and intelligent.”). “For such a waiver to be valid though, the record must demonstrate that the trial court made a sufficient inquiry to determine that the defendant ‘fully understood and intelligently relinquished his or her right to counsel.’” *Newman* at ¶ 17, quoting *State v. Martin*, 2004-Ohio-5471, ¶ 39.

{¶11} “Crim.R. 44 also addresses the appointment of counsel.” *Id.* at ¶ 13. Under Crim.R. 44(A), criminal defendants charged with a serious offense must be assigned counsel “to represent the defendant at every stage of the proceedings” unless the right to counsel is waived. “Crim.R. 44(C) further provides that ‘[w]aiver of counsel shall be in open court and the advice and waiver shall be recorded [and,] in serious offense cases the waiver shall be in writing.’” *Id.*, quoting Crim.R. 44(C) (stating that “[w]aiver of counsel shall be in open court and the advice of waiver shall be recorded as provided in Rule 22”). “““The requirements of Crim.R. 44 and 22 are mandatory, and failure to [substantially] comply with these procedures constitutes error.””” *State v. Thompson*, 2009-Ohio-185, ¶ 10 (3d Dist.), quoting *State v. Constable*, 2005-Ohio-1239, ¶ 31 (12th Dist.), quoting *Mason v. Krivinsky*, 1998 Ohio App. LEXIS 2659, \*3 (12th Dist. June 15, 1998). “Substantial compliance means that under the totality of the circumstances the defendant subjectively understands the implications of . . . the rights he is waiving.” *State v. Nero*, 56 Ohio St.3d 106, 108 (1990). “A court substantially complies with Crim.R.

44 when it makes a sufficient inquiry to determine whether the defendant fully understands and intelligently relinquishes the right to counsel.” *State v. Walker*, 2025-Ohio-975, ¶ 42 (1st Dist.).

{¶12} When evaluating whether a trial court sufficiently inquired into a defendant’s request to represent himself, courts consider several factors, including whether the defendant had a clear understanding of (1) the nature of the charges and any included statutory offenses; (2) the range of allowable punishments; (3) possible defenses and mitigating circumstances; and (4) all other facts essential to a broad understanding of the entire matter. *State v. Montgomery*, 2026-Ohio-1243, ¶ 22 (3d Dist.); *State v. Martin*, 2004-Ohio-5471, ¶ 40. “The trial court must also inform the defendant of the disadvantages of self-representation and explain that the defendant will be required to follow the same rules of procedure and evidence that normally govern the conduct of a trial.” *Walker* at ¶ 36. “In the process, a defendant, ‘should be made aware of the dangers and disadvantages of self-representation, so that the record will establish that “he knows what he is doing and his choice is made with eyes open.”’” *State v. Wallace*, 2024-Ohio-4886, ¶ 28 (1st Dist.), quoting *State v. Ott*, 2017-Ohio-521, ¶ 5 (9th Dist.), quoting *Faretta v. California*, 422 U.S. 806, 835 (1975).

{¶13} Importantly, these factors serve as a guide rather than a rigid checklist, as “there is *no* mandatory script or strict formula for advising a defendant of the dangers of self-representation.” (Emphasis in original.) *Montgomery* at ¶ 22. “The

failure to advise a defendant of the nature of the charges, the allowable penalties, and what possible defenses and mitigation might be available is a factor in determining whether the defendant sufficiently waived the right to counsel.” *Wallace* at ¶ 28. The necessary inquiry is fluid and depends on case-specific factors. *Montgomery* at ¶ 22. “Overall, whether a defendant has intelligently waived his or her right to counsel is based “upon the particular facts and circumstances surrounding that case, including the background, experience, and conduct of the accused.”” *Walker* at ¶ 36, quoting *Wallace* at ¶ 28, quoting *State v. Obermiller*, 2016-Ohio-1594, ¶ 30.

{¶14} Based on a review of the totality of the circumstances presented by this case, we conclude that Williams knowingly, intelligently, and voluntarily waived his right to counsel. The record reflects that the trial court substantially complied with the requirements of Crim.R. 44 by sufficiently inquiring in open court, on the record, and in writing whether Williams fully understood and relinquished his right to counsel.

{¶15} After Williams informed the trial court on the morning of trial that he wished to represent himself, the trial court conducted a thorough colloquy regarding the characteristics of a criminal proceeding, the pitfalls of self-representation, and the advantages of having a defense attorney. *Compare Godley*, 2018-Ohio-4253, at ¶ 40 (3d Dist.). Specifically, the trial court advised Williams that he would be bound by the same rules of evidence and procedure as a licensed attorney, that the court

could not guide him or provide legal assistance, and that proceeding pro se might impart a negative impression to the jury. The trial court further warned that his unfamiliarity with the Rules of Evidence might prevent him from introducing his desired evidence and that he would waive any future claims of ineffective assistance of counsel. *See id.* at ¶ 41 (noting that a defendant’s technical legal knowledge is irrelevant to a valid waiver so long as the defendant is informed that he will be expected to abide by the rules of evidence and criminal procedure as if he were a licensed attorney).

{¶16} Importantly, even though the trial court did not exhaustively recite the statutory penalties Williams faced during this specific dialogue, the trial court appropriately inquired into his comprehension of his jeopardy. Indeed, when asked if he understood the charges against him and the possible penalties that he faced, Williams responded affirmatively and stated, “I definitely understand what I’m charged with.” (May 27-28, 2025 Tr., Vol. I, at 15). Furthermore, the record reflects that Williams was not ignorant of the charges or their severity. In particular, one month prior to trial, Williams signed and filed a written plea of not guilty, explicitly stating that he “acknowledges an understanding of each charge with which [he] is indicted.” (Doc. No. 13). Similarly, Williams was advised of the burglary charge and the potential two-to-twelve-year prison sentence during his initial arraignment in municipal court. *See State v. Arcuri*, 2024-Ohio-4825, ¶ 10 (9th

Dist.) (noting that at arraignment, the trial court summarized the defendant’s rights and outlined the potential penalties he faced).

{¶17} Moreover, the record reflects that Williams’s decision to represent himself was a calculated, strategic choice, informing the trial court that he wanted to present his own defense strategy. Demonstrating an understanding of the significant consequences of his choice, Williams stated, “If I’m going to get sunk, I’ll sink myself. I don’t need [trial counsel] to sink me.” (*Id.*). Likewise, the record reflects that Williams has extensive experience with the criminal justice system—the record reflects “117 priors”—providing him with a practical, baseline familiarity with criminal proceedings and the adversarial process. (Feb. 24, 2025 Tr. at 3).

{¶18} Following the oral colloquy, the trial court presented Williams with a written waiver form, which Williams signed in open court. The trial court then verified that Williams was knowingly, intelligently, and voluntarily waiving his right to counsel by ensuring that Williams was not physically coerced, that no promises had been made to him, and that his prescribed back medication was not affecting his cognition or causing confusion. The trial court also appointed standby counsel.

{¶19} Under the totality of these circumstances, the record demonstrates that Williams understood the charges against him, the potential penalties he faced, and the severe risks of self-representation. *See Godley*, 2018-Ohio-4253, at ¶ 40 (3d Dist.) (concluding that the defendant knowingly, intelligently, and voluntarily

waived his right to counsel because the trial court sufficiently advised him of the right to counsel and the dangers of self-representation, ensuring his choice was made with his eyes open). Accordingly, the trial court substantially complied with Crim.R. 44. Therefore, Williams's waiver of counsel was knowing, intelligent, and voluntary and the trial court did not err by permitting him to represent himself.

{¶20} Williams's first assignment of error is overruled.

### **Second Assignment of Error**

**The trial court committed plain error when it permitted the State to elicit unsubstantiated and highly prejudicial other-acts evidence without advance notice from the State and without conducting the relevance and prejudice analyses required by Evid.R. 401 through 404(B), violating Mr. Williams's due process right to a fair trial under the U.S. Const., amends. VI and XIV, and Ohio Const., art. I, § 10. Crim.R. 52. (A-1; Tr. 230-238, 286-289; State's Ex. 34)**

{¶21} In his second assignment of error, Williams argues that the trial court committed plain error by permitting the State to introduce highly prejudicial other-acts evidence—specifically, hearsay alleging that he frequently stole from others, a reference to a prior manslaughter charge, and a fabricated rape accusation. Williams contends that the admission of this evidence violated Evid.R. 404(B) because the State failed to provide advance notice of its intent to use the evidence, and the trial court failed to conduct the mandatory three-step admissibility framework—including the required relevance and prejudice analyses—prior to its admission.

*Standard of Review*

{¶22} Generally, the admission or exclusion of evidence lies within the trial court’s discretion, and a reviewing court should not reverse absent an abuse of discretion and material prejudice. *State v. Conway*, 2006-Ohio-2815, ¶ 62. *See also State v. Wendel*, 2016-Ohio-7915, ¶ 23 (3d Dist.) (“Generally, ‘[a] trial court is given broad discretion in admitting and excluding evidence, including “other bad acts” evidence.’”), quoting *State v. Williams*, 2013-Ohio-2314, ¶ 7 (7th Dist.). An abuse of discretion implies that the trial court acted unreasonably, arbitrarily, or unconscionably. *State v. Adams*, 62 Ohio St.2d 151, 157 (1980).

{¶23} However, “[t]he admissibility of other-acts evidence pursuant to Evid.R. 404(B) is a question of law.” *State v. Hartman*, 2020-Ohio-4440, ¶ 22. “Accordingly, this court reviews de novo whether a trial court admitted improper character evidence and applies an abuse-of-discretion standard to evidentiary decisions regarding the admission of other-acts evidence for permissible purposes.” *State v. Jackson*, 2020-Ohio-5224, ¶ 28 (3d Dist.). “De novo review is independent, without deference to the lower court’s decision.” *State v. Hudson*, 2013-Ohio-647, ¶ 27 (3d Dist.).

*Analysis*

{¶24} “Evidence of a person’s character is generally inadmissible to prove that the person acted in conformity therewith on a particular occasion.” *State v. Hollaway*, 2026-Ohio-2796, ¶ 28 (4th Dist.), citing Evid.R. 404(A). Likewise,

“Evid.R. 404(B) provides that “[e]vidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith.”” *State v. Bagley*, 2014-Ohio-1787, ¶ 56 (3d Dist.), quoting *State v. May*, 2012-Ohio-5128, ¶ 69 (3d Dist.), quoting Evid.R. 404(B). “However, there are exceptions to the general rule: “It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident.”” *Id.*, quoting *May* at ¶ 69, quoting Evid.R. 404(B). *See also* R.C. 2945.59. “The list of acceptable reasons for admitting testimony of prior bad acts into evidence is non-exhaustive.” *Bagley* at ¶ 56, quoting *State v. Persohn*, 2012-Ohio-6091, ¶ 23 (7th Dist.). “The key is that the evidence must prove something other than the defendant’s disposition to commit certain acts.” *Hartman* at ¶ 22

{¶25} The Supreme Court of Ohio has set forth the three-step analysis trial courts should conduct (when such evidence is properly challenged) in determining whether “other acts” evidence is admissible under Evid.R. 404(B). *State v. Williams*, 2012-Ohio-5695, ¶ 19-20. “The first step is to consider whether the other acts evidence is relevant to making any fact that is of consequence to the determination of the action more or less probable than it would be without the evidence.” *Id.*, citing Evid.R. 401. “The next step is to consider whether evidence of the other crimes, wrongs, or acts is presented to prove the character of the accused in order to show activity in conformity therewith or whether the other acts evidence

is presented for a legitimate purpose, such as those stated in Evid.R. 404(B).” *Id.* “The third step is to consider whether the probative value of the other acts evidence is substantially outweighed by the danger of unfair prejudice.” *Id.*, citing Evid.R. 403.

{¶26} On appeal, Williams argues that the trial court failed to apply this mandatory framework to three specific pieces of evidence admitted at trial: (1) the victim’s redirect testimony detailing hearsay from Williams’s ex-girlfriend that he was a “homeless crackhead” who “steals from everybody”; (2) the victim’s redirect testimony volunteering that she believed Williams had a prior manslaughter charge; and (3) a fabricated rape accusation made by Detective Snyder that was played for the jury as part of an unredacted police interview.

{¶27} Because Williams failed to object to the challenged other-acts evidence under Evid.R. 404(B) at trial, he has waived all but plain error. *State v. Jackson*, 2023-Ohio-2193, ¶ 38 (3d Dist.); Crim.R. 52(B). “For plain error to apply, the trial court must have deviated from a legal rule, the error must have been an obvious defect in the proceeding, and the error must have affected a substantial right.” *State v. Bradshaw*, 2023-Ohio-1244, ¶ 21 (3d Dist.). That is, “[u]nder the plain error standard, the appellant must demonstrate that there is a reasonable probability that, but for the trial court’s error, the outcome of the proceeding would have been otherwise.” *Id.* Even if these prongs are met, an appellate court should correct a plain error only with the utmost caution, under exceptional circumstances,

and to prevent a manifest miscarriage of justice. *State v. Schmidt*, 2014-Ohio-758, ¶ 10 (3d Dist.).

{¶28} Even if we assume without deciding that the other-acts evidence to which Williams objects was improperly admitted, Williams cannot demonstrate that the outcome of his trial would have been different. *Accord State v. Jackson*, 2023-Ohio-2193, ¶ 74 (3d Dist.). Critically, even absent the evidence to which Williams objects, the State still presented substantial evidence identifying Williams as the intruder and corroborating critical portions of the victim's account. Specifically, the victim testified that she was certain of her identification because she recognized Williams's voice and saw his wrist when he lifted his arm during the attack. Likewise, building surveillance footage showed a man in a dark hooded jacket entering the secured building at approximately 4:08 a.m., remaining inside for about fifteen minutes, and then exiting toward the side of the building where the victim's bedroom window was located. Police also found a boot-tread impression in the frost directly beneath that window, and the tread pattern on boots recovered from Williams was consistent with that impression. However, most significantly as to identity and manner of entry, Williams admitted during his recorded police interview that he entered the apartment through the bedroom window on the night in question.

{¶29} Collectively, this evidence provided substantial evidence— independent of the challenged other-acts testimony—corroborating the material

portions of the victim's account, including Williams's identity and manner of entry. Consequently, Williams has not shown a reasonable probability that the challenged testimony affected the outcome of trial. Therefore, we conclude that he failed to demonstrate plain error.

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

### **Third Assignment of Error**

**The trial court committed plain error when it added a 5-year RVO enhancement to the sentence imposed on Count 2, because the statutory prerequisite of "serious physical harm" was neither found by the trier of fact nor supported by the record, rendering the enhancement contrary to R.C. 2929.14(B)(2)(a)(ii) and violating Mr. Williams's due process rights under the U.S. Const., amends. VI and XIV, and Ohio Const., art. I, § 10. Crim.R. 52 (A-1; Tr. 170, 330-331, 390-393; Sent. Tr. 5-10, 15-20.)**

{¶31} In his third assignment of error, Williams argues that the trial court erred by imposing a five-year repeat violent offender enhancement on his second-degree robbery conviction without the mandatory statutory finding that the offense involved serious physical harm. The State concedes the error, agreeing that the enhancement is contrary to law and must be vacated because the underlying charge of simple robbery does not require proof of serious physical harm. We agree.

### *Standard of Review*

{¶32} Under R.C. 2953.08(G)(2), an appellate court will 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 the syllabus.

*Analysis*

{¶33} “When an indictment includes a repeat-violent-offender specification, ‘[t]he court shall determine the issue of whether an offender is a repeat violent offender.’” *State v. Malloy*, 2026-Ohio-14, ¶ 10 (3d Dist.), quoting R.C. 2941.149(B). As relevant here, a repeat violent offender is a person who “is being sentenced for committing . . . any felony of the . . . second degree that is an offense of violence” and “[t]he person previously was convicted of or pleaded guilty to an offense described in division (CC)(1)(a) or (b) of this section.” R.C. 2929.01(CC). “Therefore, the first step in the process of designating a person as a repeat violent offender requires that the person is ‘being sentenced for committing’ an ‘offense of violence.’” *Malloy* at ¶ 14, quoting R.C. 2929.01(CC)(1)(a). In this case, the jury found Williams guilty of robbery, which is an offense of violence. *See* R.C. 2901.01(A)(9)(a).

{¶34} Once a defendant is classified as an RVO, “R.C. 2929.14(B)(2) governs RVO specifications sentencing.” *State v. Maloney*, 2024-Ohio-3143, ¶ 12 (12th Dist.). In this case, the trial court imposed the sentence for the RVO specification under the discretionary provision of R.C. 2929.14(B)(2)(a). “Pursuant

to that statute, a trial court may impose upon an offender ‘an additional definite prison term’ of one to ten years, in one-year increments, if five criteria are met.” *Id.*, quoting R.C. 2929.14(B)(2)(a). “When imposing a sentence under R.C. 2929.14(B)(2)(a), the trial court ‘shall state its findings explaining the imposed sentence.’” *Id.*, quoting R.C. 2929.14(B)(2)(e).

{¶35} Crucially, under R.C. 2929.14(B)(2)(a)(ii), the criteria for imposing the discretionary RVO sentence require that the offense is “any felony of the second degree that is an offense of violence *and* the trier of fact finds that the offense involved an attempt to cause or a threat to cause *serious physical harm* to a person or resulted in *serious physical harm* to a person.” (Emphasis added.) R.C. 2929.14(B)(2)(a)(ii). *See State v. Lodwick*, 2018-Ohio-3710, ¶ 36 (4th Dist.) (explaining that to impose an additional sentence upon a repeat violent offender, the statute requires both that the offense be an offense of violence and that the trier of fact find the offense involved or resulted in serious physical harm).

{¶36} Williams was convicted of robbery under R.C. 2911.02(A)(2), which provides, in its relevant part, “No person, in attempting or committing a theft offense or in fleeing immediately after the attempt or offense, shall . . . [i]nflict, attempt to inflict, or threaten to inflict *physical harm* on another . . .” (Emphasis added.) R.C. 2911.02(A)(2). Even though robbery is an offense of violence, robbery under R.C. 2911.02(A)(2) requires only proof of physical harm, not serious physical harm. Because of this statutory distinction, the elements of robbery do not include actual,

attempted, or threatened serious physical harm. *See Lodwick* at ¶ 37. Furthermore, the trier of fact in this case never made a finding that the robbery involved serious physical harm. *Compare State v. Davis*, 2009-Ohio-5079, ¶ 35 (7th Dist.). As a result, the trial court erred by imposing a prison term in connection with the RVO classification. *Accord Lodwick* at ¶ 37. Accordingly, even though Williams was properly classified as a repeat violent offender, the five-year prison term imposed as a result is contrary to law and must be vacated. *Accord id.* at ¶ 38.

{¶37} Williams's third assignment of error is sustained.

{¶38} Having found no error prejudicial to the appellant in the first and second assignments of error, we affirm those portions of the trial court's judgment. However, having found error prejudicial to the appellant in the third assignment of error, we reverse that portion of the judgment and remand the matter to the trial court for further proceedings consistent with this opinion.

***Judgment Affirmed in Part,  
Reversed in Part and Cause Remanded  
in Appellate Case Number 1-25-52***

***Appellate Case Number 1-25-53 Dismissed***

**MILLER and WALDICK, J.J., concur.**

**JUDGMENT ENTRY**

For the reasons stated in the opinion of this Court, the judgment and order of this Court is as follows.

In Case Number 1-25-53, the judgment of the trial court is dismissed with costs assessed to Appellant for which judgment is hereby rendered. The cause is remanded to the trial court for execution of the judgment for costs.

In Case Number 1-25-52, the judgment of the trial court is affirmed in part and reversed in part with costs assessed equally between Appellant and Appellee for which judgment is hereby rendered. The cause is remanded to the trial court for further proceedings and 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.

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William R. Zimmerman, Judge

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Mark C. Miller, Judge

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Juergen A. Waldick, Judge

DATED: