

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
JACKSON COUNTY

STATE OF OHIO,	:	
	:	Case No. 24CA15
Plaintiff-Appellee,	:	
	:	
v.	:	
	:	<u>DECISION AND JUDGMENT</u>
BRYSON BAISDEN,	:	<u>ENTRY</u>
	:	
Defendant-Appellant.	:	
	:	RELEASED: 08/10/2026

APPEARANCES:

Christopher Pagan, Middletown, Ohio, for appellant.

Trenton Douthett, Jackson County Prosecuting Attorney, for appellee.

Wilkin, J.

{¶1} This is an appeal of a Jackson County Court of Common Pleas judgment entry in which Bryson Baisden (“Baisden”) was convicted after a jury trial of aggravated possession of drugs, receiving stolen property, and tampering with evidence. On appeal, Baisden contends: 1) his conviction for tampering with evidence was contrary to law because the State presented insufficient evidence of an essential element of the offense; and 2) the trial court imposed an unlawful consecutive sentence. After reviewing the parties’ arguments, the record, and the applicable law, we find Baisden’s assignments of error to lack merit and therefore affirm the trial court. However, we remand the case to the trial court for the limited purpose of correcting the sentencing entry.

BACKGROUND

{¶2} In October 2021, M.L. reported someone had stolen his 2013 Arctic Cat 700 four-wheeler, which was later entered into a statewide database as a stolen vehicle. Shortly after, on November 2, 2021, while employed by the Jackson County Sheriff's Office, Deputy Leif Smith ("Smith") responded to a call that Baisden had been riding the stolen four-wheeler. Smith knew Baisden from past encounters. At the time Smith received the information, he was not "on duty"; however, he drove his cruiser to investigate and found Baisden with the stolen four-wheeler at the old drive-in on State Route 93, between Glenroy and Coalton in Jackson County. When Smith questioned Baisden, Baisden said he obtained the four-wheeler (which had its original ignition punched out and two wires exposed from hotwiring) from a man named Blazer. Not only did Baisden say he knew the four-wheeler was stolen, the four-wheeler had also obviously been painted with the factory paint showing through.

{¶3} Smith detained Baisden. Before patting Baisden down, Smith asked Baisden if he had anything illegal on his person. At that point, Baisden removed a hypodermic syringe from his pocket. Once Baisden produced the hypodermic needle, Smith believed that Baisden might have an illegal substance on his person. Smith then advised Baisden to turn around so Smith could perform the pat-down.

{¶4} As Baisden turned around, he bent forward and made a tossing motion--then Smith heard the noise of an object striking something metal. Once Smith completed the pat-down, he placed Baisden in his cruiser. Then Smith

went back to retrieve the object in the area where Baisden had thrown it and discovered a pill bottle containing a crystalline substance. Smith believed the substance to be methamphetamine (which later testing confirmed to be .48 grams of methamphetamine). When Smith confronted Baisden about the object, Baisden said, “damn.”

{¶5} On May 15, 2023, a Jackson County Grand Jury returned an indictment against Baisden for three counts: aggravated possession of drugs (methamphetamine), a fifth-degree felony, in violation of R.C. 2925.11(A) and (C)(1)(a); receiving stolen property, a fourth-degree felony in violation of R.C. 2913.51(A) and (C); and tampering with evidence, a third-degree felony in violation of R.C. 2921.12(A)(1).

{¶6} On July 10, 2023, the trial court found Baisden incompetent to stand trial but restorable and remanded him to a psychiatric hospital for treatment. After Baisden was restored to competency, the case proceeded to a jury trial on June 10, 2024. At the conclusion of the State’s case, Baisden made a Crim.R. 29(A) motion for acquittal. The trial court overruled the motion. The jury subsequently found Baisden guilty of all counts.

{¶7} The trial court set the hearing for sentencing on a separate date, and Baisden failed to appear. When Baisden did appear, the trial court imposed maximum consecutive sentences, for an aggregate 66-month term, set forth in an entry dated September 20, 2024.

{¶8} Baisden submitted a notice of appeal with two assignments of error.

ASSIGNMENTS OF ERROR

I. THE CONVICTION FOR F3 TAMPERING WAS CONTRARY TO LAW.

II. THE TRIAL COURT IMPOSED AN UNLAWFUL CONSECUTIVE SENTENCE.

FIRST ASSIGNMENT OF ERROR

{¶9} In his first assignment of error, Baisden contends that his conviction for tampering with evidence was contrary to law because the State failed to present sufficient evidence of each element of the offense. Specifically, Baisden asserts the State failed to prove he knew that the deputy was acting officially when the deputy investigated the concealed methamphetamine.

{¶10} The State acknowledges that the deputy investigating the case was off duty at the time of the offense; however, contends that the deputy was in uniform and driving his police cruiser at the time when he encountered Baisden so there was no indication that Baisden even knew the deputy was off duty. Further, the State points to several facts that show Baisden knew an official investigation was underway when he concealed the methamphetamine, and also distinguishes the cases cited by Baisden on appeal.

A. Law.

1. Standard of Review

{¶11} “In general, a claim of insufficient evidence invokes a due process concern and raises the question of whether the evidence is legally sufficient to support the verdict as a matter of law.” *State v. King*, 2022-Ohio-4616, ¶ 22 (4th Dist.), citing *State v. Schroeder*, 2019-Ohio-4136, ¶ 59 (4th Dist.); *State v.*

Thompkins, 78 Ohio St.3d 380, 386 (1997). Thus, “[w]hether the evidence is legally sufficient to sustain a conviction is a question of law that this court reviews de novo.” *State v. Brown*, 2025-Ohio-2804, ¶ 16, citing *State v. Groce*, 2020-Ohio-6671, ¶ 7. Viewing the evidence in the light most favorable to the prosecution the court asks whether “ ‘ “any rational trier of fact could have found the essential elements of the crime proved beyond a reasonable doubt.” ’ ” *Id.*, quoting *State v. Dean*, 2015-Ohio-4347, ¶ 150, quoting *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus. Accordingly, “[t]he appropriate standard of review for a sufficiency-of-the-evidence challenge is ‘whether, if believed, the evidence can sustain the verdict as a matter of law.’ ” *Id.* at ¶ 17, quoting *State v. Richardson*, 2016-Ohio-8448, ¶ 13.

{¶12} In proving its case, the State may rely on either direct or circumstantial evidence. “Circumstantial evidence and direct evidence inherently possess the same probative value.” *State v. Barnes*, 2020-Ohio-3943, ¶ 24 (4th Dist.), citing *Jenks*, paragraph one of the syllabus. In fact, “all courts have concluded that a defendant may be convicted solely on the basis of circumstantial evidence.” *State v. Burns*, 2025-Ohio-5442, ¶ 26 (4th Dist.), citing *State v. Nicely*, 39 Ohio St.3d 147, 151 (1988); *State v. Anderson*, 2018-Ohio-2013, ¶ 40 (4th Dist.). Circumstantial evidence is defined as “ ‘[t]estimony not based on actual personal knowledge or observation of the facts in controversy, but of other facts from which deductions are drawn, showing indirectly the facts sought to be proved.’ ” *State v. Meddock*, 2017-Ohio-4414, ¶ 54 (4th Dist.),

quoting *State v. Nicely*, 39 Ohio St. 3d at 150, (1988), quoting *Black's Law Dictionary* (5th Ed. 1979).

2. Tampering with Evidence

{¶13} Baisden challenges his conviction for tampering with evidence. Tampering with evidence, in violation of R.C. 2921.12(A)(1), provides “[n]o person, knowing that an official proceeding or investigation is in progress, or is about to be or likely to be instituted, shall * * * [a]lter, destroy, conceal, or remove any record, document, or thing, with purpose to impair its value or availability as evidence in such proceeding or investigation[.]” “ ‘There are three elements of this offense: (1) the knowledge of an official proceeding or investigation in progress or likely to be instituted, (2) the alteration, destruction, concealment, or removal of the potential evidence, (3) the purpose of impairing the potential evidence's availability or value in such proceeding or investigation.’ ” *State v. Stevens*, 2023-Ohio-362, ¶ 14 (4th Dist.), quoting *State v. Straley*, 2014-Ohio-2139 ¶ 11. “ ‘The likelihood of an investigation is measured at the time of the alleged tampering.’ ” *State v. Bradshaw*, 2018-Ohio-1105, ¶ 20 (4th Dist.) quoting *State v. Martin*, 2017-Ohio-7556, ¶ 110, citing *Straley* at ¶ 19, and *State v. Barry*, 2015-Ohio-5449, ¶ 2.

{¶14} The definition of “knowingly,” is set forth in R.C. 2901.22(B):

A person acts knowingly, regardless of purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist. When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person subjectively believes that there is a high probability of its

existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.

{¶15} Therefore, the defendant must be “ ‘*aware* that conduct will probably cause a certain result or will probably be of a certain nature or that circumstances probably exist.’ ” *Bradshaw* at ¶ 22, quoting *Barry* at ¶ 24. (Emphasis in original.) In addition, the statute “ ‘provides that a person can be charged with knowledge of a particular fact only if that person “*subjectively* believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.” ’ ” *Id.* quoting *Barry* at ¶ 24. (Emphasis in original), quoting R.C. 2901.22(B). Thus, “ ‘the definition of “knowingly” does not encompass knowledge that a reasonably diligent person should, but does not, have.’ ” *Id.* quoting *Barry* at ¶ 24. As a result, “ ‘constructive knowledge is insufficient to prove that [an accused] knew that an investigation was ongoing or likely to be commenced.’ ” *Id.* quoting *Barry* at ¶ 25. “ ‘Ohio law does not impute constructive knowledge of an impending investigation based solely on the commission of an offense.’ ” *Id.*, citing *Barry* at ¶ 2. “However, ‘knowledge of a likely investigation may be inferred when the defendant commits a crime that *is* likely to be reported.’ ” (Emphasis in original.) *State v. Stevens*, 2023-Ohio-362, ¶ 22 (4th Dist.), quoting *State v. Martin*, 2017-Ohio-7556, ¶ 118.

B. Analysis

{¶16} In the instant case, while challenging the same element of the offense on appeal, “(1) the knowledge of an official proceeding or investigation in progress or likely to be instituted,” Baisden presents a slightly different argument

than he contended during the trial when he made a Crim.R. 29(A) motion. At trial, while Baisden appeared to acknowledge that the State showed an investigation was in progress as it related to the four-wheeler, Baisden asserted that the State failed to prove that he knew an investigation was in progress *as it related to the methamphetamine*. On appeal, however, he asserts, “[t]his is a different issue than whether Baisden knew that an investigation was active or likely when he acted to conceal the methamphetamine. The State had to prove both knowledge of official acts and knowledge of an investigation related to methamphetamine. * * * While the State elicited some evidence related to drugs, *it produced no evidence it was official*.” (Emphasis added.) Accordingly, he argues on appeal that the State “elicited no evidence that the deputy’s actions were official ones when they were performed off duty.” He claims that because tampering measures the criminal liability at the time of the act of the tampering, the State could only rely on testimony of facts that occurred at the point in time he concealed the methamphetamine to prove knowledge. He concedes in his reply brief that “there was sufficient evidence that he knew, when he tossed the contraband, that an investigation was in progress over drugs.” Baisden reiterates that “[w]hat was missing was his knowledge of an *official* investigation when he tossed the contraband.” (Emphasis added.)

{¶17} In light of Baisden’s arguments on appeal, we first emphasize that the statutory language indicates the State had to prove either that Baisden knew an official proceeding or investigation was in progress, or was about to be or likely to be instituted. We find that the State presented sufficient circumstantial

evidence of this element of the offense. Smith indicated he had “past encounters” with Baisden. Smith testified that he could see the four-wheeler’s headlights when he pulled in to the scene where Baisden and the four-wheeler were located and other evidence showed he was in a cruiser. Smith questioned Baisden about a four-wheeler that had been stolen. In the process of patting Baisden down when detaining him, Smith asked Baisden if he had anything illegal on him, including illegal substances, and Baisden produced a hypodermic syringe. At that point, Smith asked Baisden to turn around, and at that time, Baisden threw what was later to be discovered as a pill bottle containing methamphetamine. Baisden responded, “damn” when Smith told him he had found the pill bottle.

{¶18} These facts are circumstantial evidence that Baisden knew the official nature of the investigation because Baisden complied with many of Smith’s directives, responding to authority (answering questions about the four-wheeler, turning over the syringe, turning around to be patted down, etc.). While at trial, even though Smith indicated he was “off duty” at the time of the investigation, there is no indication that Baisden knew of that fact—otherwise he would not have submitted so quickly to several lawful commands.

{¶19} For these reasons, we cannot find merit to Baisden’s first assignment of error and affirm the trial court.

SECOND ASSIGNMENT OF ERROR

{¶20} In his second assignment of error, Baisden avers that the trial court imposed unlawful consecutive sentences because it failed to make the required

consecutive-sentencing findings at the hearing but later supplied them in the written entry. The State responds that the record clearly and convincingly shows the trial court properly followed sentencing procedure under R.C. 2929.14(C)(4) when assessing the consecutive sentence.

A. Law.

{¶21} We review Baisden’s sentence pursuant to the dictates of R.C. 2953.08(G). See *State v. Marcum*, 2016-Ohio-1002, ¶ 16. R.C. 2953.08(G)(2), provides that

[t]he court hearing an appeal under division (A), (B), or (C) of this section shall review the record, including the findings underlying the sentence or modification given by the sentencing court.

The 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. The appellate court’s standard for review is not whether the sentencing court abused its discretion. The appellate court may take any action authorized by this division if it clearly and convincingly finds either of the following:

(a) That the record does not support the sentencing court’s findings under division (B) or (D) of section 2929.13, division (B)(2)(e) or (C)(4) of section 2929.14, or division (I) of section 2929.20 of the Revised Code, whichever, if any, is relevant;

(b) That the sentence is otherwise contrary to law.

{¶22} The Supreme Court of Ohio has recognized that “ ‘contrary to law’ [means] ‘in violation of statute or legal regulations at a given time[.]’ ” *State v. Jones*, 2020-Ohio-6729, ¶ 34, quoting *Black’s Law Dictionary* (6th Ed.1990). Therefore, “ ‘a sentence is generally not contrary to law if the trial court considered the R.C. 2929.11 purposes and principles of sentencing as well as the R.C. 2929.12 seriousness and recidivism factors, properly applied post[-

]release control, and imposed a sentence within the statutory range.” ’ ” *State v. Allen*, 2021-Ohio-648, ¶ 14 (4th Dist.), quoting *State v. Perry*, 2017-Ohio-69, ¶ 21 (4th Dist.), quoting *State v. Brewer*, 2014-Ohio-1903, ¶ 38 (4th Dist.).

{¶23} “Ordinarily, appellate courts defer to the broad discretion trial courts have in making sentencing decisions, and R.C. 2953.08(G) also reflects that deference.” *State v. Nickell*, 2025-Ohio-1232, ¶ 83 (4th Dist.). This is because “[a] trial judge has the opportunity to preside over the trial, hear witnesses testify, hear the defendant make his allocution directly to the sentencing judge, and hear from the victims at sentencing.” *Id.* citing *State v. Blanton*, 2025-Ohio-237, ¶ 30 (4th Dist.), citing *State v. Glover*, 2024-Ohio-5195, ¶ 39. “Thus, appellate courts should possess no inherent right to second guess a felony sentence.” *Id.* Except “to the extent specifically directed by statute, ‘it is not the role of an appellate court to substitute its judgment for that of the sentencing court as to the appropriateness of a particular sentence.’ ” (Citations omitted.) *Id.* quoting *Blanton*, citing *State v. Glover*, 2024-Ohio-5195, ¶ 39. Accordingly, the appellate court should give “broad deference to a trial court’s sentencing decision and not serve as a ‘second-tier’ sentencing court.” *Nickell*, 2025-Ohio-1232, ¶ 82 (4th Dist.), citing *Blanton* at ¶ 30, citing *Glover* at ¶ 39.

{¶24} In that light, the statute does not allow an appellate court to reverse or modify a sentence on the basis that the trial court abused its discretion. *Id.* at ¶ 85, citing *Blanton* at ¶ 31, and *Glover* at ¶ 45. “ ‘The plain language of R.C. 2953.08(G)(2) requires an appellate court to defer to a trial court’s consecutive-sentence findings and the trial court’s findings must be upheld unless those

findings are clearly and convincingly not supported by the record.’ ” *State v. Hurst*, 2024-Ohio-5544, ¶ 16 (4th Dist.), quoting *State v. Gwynne*, 2023-Ohio-3851, ¶ 5 (lead opinion). “ ‘The clear-and-convincing standard for appellate review of R.C. 2953.08(G)(2) is written in the negative.’ ” *Id.*, quoting *Gwynne* at ¶ 13. “Moreover, ‘clear and convincing evidence’ is ‘that measure or degree of proof which is more than a mere “preponderance of the evidence,” but not to the extent of such certainty as is required “beyond a reasonable doubt” in criminal cases, and which will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established.’ ” *State v. Brummett*, 2025-Ohio-5307, ¶ 33 (4th Dist.), quoting *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus.

{¶25} Regarding consecutive sentences, R.C. 2929.14(C)(4) provides:

If multiple prison terms are imposed on an offender for convictions of multiple offenses, the court may require the offender to serve the prison terms consecutively if the court finds that the consecutive service is necessary to protect the public from future crime or to punish the offender and that consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public, and if the court also finds any of the following:

- (a) The offender committed one or more of the multiple offenses while the offender was awaiting trial or sentencing, was under a sanction imposed pursuant to section 2929.16, 2929.17, or 2929.18 of the Revised Code, or was under post-release control for a prior offense.
- (b) At least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the multiple offenses so committed was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the offender's conduct.

(c) The offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender.

{¶26} We acknowledge that in general, “a statutory presumption exists in favor of concurrent sentences pursuant to R.C. 2929.41(A) and R.C. 2929.14(C)(4) governs the imposition of consecutive terms of imprisonment.” *State v. Wyke*, 2025-Ohio-4990, ¶ 42 (4th Dist.), citing *State v. Collins*, 2024-Ohio-2891, ¶ 23 (4th Dist.), citing *Glover* at ¶ 38. Accordingly, “[t]o justify the imposition of consecutive terms of imprisonment, ‘a trial court must make the findings mandated by R.C. 2929.14(C)(4) at the sentencing hearing and incorporate its findings into its sentencing entry, but the court has no obligation to state reasons to support its findings.’ ” *Id.* quoting *State v. Blair*, 2019-Ohio-2768 ¶ 52, (4th Dist.), citing *State v. Bonnell*, 2014-Ohio-3177, syllabus. In addition, it is well-established that the trial court is not required to use “talismanic words” as long as the necessary findings can be found in the record and are incorporated into the sentencing entry. *State v. Wyke*, 2025-Ohio-4990, ¶ 48 (4th Dist.) and *State v. Sines-Riley*, 2025-Ohio-3200, ¶ 12 (4th Dist.), citing *Bonnell* at ¶ 37.

B. Analysis

{¶27} Baisden begins his sentencing challenge by claiming the trial court pronounced “incomplete findings at sentencing.” Baisden goes on to acknowledge, in essence, that the entry more explicitly sets forth three of the findings made at the hearing. However, he points out that the trial court did not reference in any fashion at the hearing the finding that “two of the multiple

offenses were committed as part of one or more courses of conduct” which nevertheless appears in the entry.

{¶28} As it pertains to consecutive sentences, the trial court stated on the record at the hearing:

The court finds those sentences need to be served consecutively. It's necessary to protect the public. The punishment is not disproportionate. The criminal history demonstrates that these sentences need to be consecutive.

{¶29} Even though the trial court did not recite the statute in detail, or verbatim, it is clear from the record that it performed the proper analysis set forth in the statute. While a trial court is required to make the findings mandated by R.C. 2929.14(C)(4), it is not required to recite “ ‘a word-for-word recitation of the language of the statute * * *.’ ” *State v. Robinson*, 2019-Ohio-2155, ¶ 33 (4th Dist.), quoting *State v. Bonnell*, 2014-Ohio-3177, paragraph 2 of the syllabus, ¶ 29. “ ‘[A]s long as the reviewing court can discern that the trial court engaged in the correct analysis and can determine that the record contains evidence to support the findings, consecutive sentences should be upheld.’ ” *Id.*, quoting *Bonnell* at ¶ 29. See, e.g., *State v. Amero*, 2024-Ohio-1007, ¶ 45 (11th Dist.); *State v. Jackson*, 2024-Ohio-583, ¶ 6 (8th Dist.); *State v. Peoples*, 2022-Ohio-953, ¶ 59 (10th Dist.).

{¶30} Moreover, the trial court was required to make only one of the findings set forth in R.C. 2929.14(C)(4)—either (a), (b), or (c). See *State v. Tolliver*, 2026-Ohio-1615, ¶ 30 (3d Dist.), citing *State v. Runyon*, 2024-Ohio-5039, ¶ 23 (3d Dist.). The trial court demonstrated that it analyzed the statute to find that R.C. 2929.14(C)(4)(c) applied in the instant case, i.e., that, “the

offender's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender."

{¶31} Furthermore, the sentencing entry sets forth the findings for the imposition of consecutive sentences in more detail. The entry states:

Pursuant to R.C. 2929.14(C)(4) the [c]ourt orders that consecutive sentences are made necessary to protect the public from future crime or punish the defendant, and that consecutive sentences are not disproportionate to the seriousness of defendant's conduct and to the danger the defendant poses to the public, and because:

The defendant's history of criminal conduct demonstrates that consecutive sentences are necessary to protect to the public from future crime by the defendant.

At least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the multiple offenses so committed was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the defendant's conduct.

{¶32} Here, we agree with Baisden that the trial court did not recite on the record the finding "multiple offenses were committed as part of one or more courses of conduct," pursuant to R.C. 2929.14(C)(4)(b), even though the trial court entered that finding in its entry. "Generally, a trial court speaks through its journal entries and not by oral pronouncement." *State v. Stutes*, 2023-Ohio-4582, ¶ 38 (4th Dist.), citing *State v. Guilkey*, 2005-Ohio-3501, ¶ 10 (4th Dist.). "But there is an exception in criminal cases 'because the defendant has a constitutional right to be present at every stage of the proceedings and to know his sentence at the sentencing hearing.'" *Id.* citing *State v. Rhodes*, 2011-Ohio-5153, ¶ 11 (8th Dist.), citing Crim.R. 43. Moreover, "[i]f the trial court fails to

make the requisite findings at the sentencing hearing, the imposition of consecutive sentences is contrary to law even if the sentencing entry includes the findings.” *State v. Farmer*, 2024-Ohio-6063, ¶ 65 (4th Dist.), citing *State v. Conn*, 2023-Ohio-2669, ¶ 26 (4th Dist.) and *State v. Nolan*, 2024-Ohio-1245, ¶ 18 (4th Dist.).

{¶33} However, a trial court need only make one of the findings under R.C. 2929.14(C)(4)(a)-(c) and the trial court made a finding under R.C. 2929.14(C)(4)(c) both at the sentencing hearing and in the sentencing entry. See, e.g., *State v. Writesel*, 2017-Ohio-8795, ¶ 16 (12th Dist.). Accordingly, because the trial court was only required to make one of the findings from R.C. 2929.14(C)(4)(a), (b), and (c), and it did make one of those findings on the record and incorporated that finding in the entry (R.C. 2929.14(C)(4)(c)), the trial court must correct the sentencing entry to reflect what actually occurred at the hearing by a nunc pro tunc entry to omit the finding in the entry of R.C. 2929.14(C)(4)(b).

{¶34} “A trial court has authority to ‘correct “clerical mistakes in judgments, orders, or other parts of the record, and errors in the record arising from oversight or omission, at any time.” ’ ” *State v. Jackson*, 2025-Ohio-2070, ¶ 10 (8th Dist.), citing *State v. Johnson*, 2024-Ohio-1371, ¶ 7 (8th Dist.), quoting Crim.R. 36. “Proper use of a nunc pro tunc entry is limited to correcting a clerical error in a judgment or order so that the record reflects what the court actually did or decided.” *State v. Yancy*, 2025-Ohio-5135, ¶ 64 (8th Dist.), citing *State v. Lester*, 2011-Ohio-5204, ¶ 18, citing *State ex rel. Fogle v. Steiner*, 74 Ohio St. 3d 158, 164 (1995). Even though a nunc pro tunc entry cannot be used to supply

omitted action or to indicate what the court might or should have done or intended to do, a nunc pro tunc should be used to reflect what actually happened. *Id.*; *State v. Wright*, 2019-Ohio-1361, ¶ 18 (8th Dist.). Discrepancies between a consecutive-sentencing finding made at a sentencing hearing and the consecutive-sentence finding included in a sentencing entry does not require a full resentencing hearing and can be corrected by a nunc pro tunc entry. See *State v. Diallo*, 2025-Ohio-920, ¶ 43 (10th Dist.) (instead of new sentencing hearing, a nunc pro tunc entry could be used to set out what actually occurred at hearing when the sentencing entry included a consecutive sentencing finding the trial court made, but also included consecutive sentence findings not made at the hearing); *State v. Palmer*, 2023-Ohio-2719, ¶ 15 (3d Dist.) (when sentencing entry journalized R.C. 2929.14(C)(4)(b), rather than R.C. 2929.14(C)(4)(c), the finding that the trial court made at the hearing, appellate court held that the error in journalizing the consecutive-sentence findings can be corrected by nunc pro tunc entry).

{¶35} In the case sub judice, our review of the record shows that the trial court made the findings at the hearing that were necessary to impose consecutive sentences. In addition, we observe that the findings necessary to impose consecutive sentences are set out in the sentencing entry. However, we also find that Baisden is correct that the trial court did not make a finding at the hearing that two of the multiple offenses were committed as part of one or more courses of conduct. Accordingly, we sustain Baisden's second assignment of error to the extent that it asserts the sentencing entry erroneously includes a

finding under R.C. 2929.14(C)(4)(b) but overrule the second assignment of error to the extent it argues that the trial court's finding of consecutive sentences is contrary to law. As explained above, this cause must be remanded for the limited purpose of the trial court preparing a nunc pro tunc entry consistent with what occurred at the hearing. We, therefore, affirm the second assignment of error, in part, as to the imposition of consecutive sentences, but sustain the second assignment of error, in part, insofar as the trial court's sentencing entry essentially references a finding not made at the sentencing hearing (R.C. 2929.14(C)(4)(b)).

CONCLUSION

{¶36} In conclusion, we affirm the judgment of the trial court but remand the matter for the limited purpose of allowing the trial court to correct its clerical error by issuing an appropriate nunc pro tunc entry.

JUDGMENT AFFIRMED AND CAUSE REMANDED.

JUDGMENT ENTRY

It is ordered that the **JUDGMENT IS AFFIRMED AND CAUSE REMANDED** and appellant shall pay the costs.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Jackson County Common Pleas Court to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Abele, J. and Hess, J.: Concur in Judgment and Opinion.

For the Court,

BY: _____
Kristy S. Wilkin, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 22, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.