

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

STATE OF OHIO,	:	
	:	
Plaintiff-Appellee,	:	Case No. 25CA17
	:	
v.	:	
	:	
DAKOTA D. MACKEY,	:	<u>DECISION AND JUDGMENT</u>
	:	<u>ENTRY</u>
	:	
Defendant-Appellant.	:	

APPEARANCES:

Christopher Pagan, Repper-Pagan Law, Ltd., Middletown, Ohio, for appellant.

Joe Derkin, Washington County Prosecutor, Daniel W. Everson, Washington County Assistant Prosecutor, Gallipolis, Ohio, for appellee.

Smith, P.J.

{¶1} Dakota D. Mackey, “appellant,” appeals the Journal Entry:

Sentencing filed March 31, 2025 in the Washington County Court of Common Pleas. Appellant pled guilty to Trafficking in a Fentanyl-Related Compound. Here, appellant raises a single assignment of error relating to both the court’s imposition of a sanction for contempt and the court’s order that it be served consecutively to appellant’s underlying felony sentence.

{¶2} Based upon our review, we find no merit to appellant's assignment of error. Thus, the sole assignment of error is overruled and the judgment of the trial court is affirmed.

FACTUAL AND PROCEDURAL BACKGROUND

{¶3} On July 24, 2024, appellant was indicted on two counts: (1) Possession of a Fentanyl-Related Compound, a violation of R.C. 2925.11(A)/R.C.2925.11(C)(11)(g); and (2) Trafficking in a Fentanyl-Related Compound, a violation of R.C. 2925.03(A)(2)/(C)(9)(h), both felonies of the first degree. Both counts carried specifications for Major Drug Offender (MDO); forfeiture of money in a drug case; and forfeiture of a cell phone in a drug case. On July 25, 2024, appellant was arraigned and he pled not guilty. The court appointed counsel for him.

{¶4} Also at arraignment, the trial court set appellant's bond for \$200,000 cash "and as a Personal Recognizance Bond, upon the conditions that Defendant maintains contact with his attorney, appears at the pre-trial, final pre-trial, and jury trial, and commits no new criminal offenses." By August 27, 2024, appellant was allowed to appear on a personal recognizance bond. The conditions of appellant's personal recognizance bond were set forth as follows: "MAINTAIN CONTACT WITH ATTORNEY, APPEAR AT ALL FUTURE HEARINGS UNTIL CASE IS

DISPOSED OF, COMMIT NO FURTHER CRIMINAL VIOLATIONS.”

On September 6, 2024, the record reflects that the personal recognizance bond was continued upon conditions as set forth above, with an added condition that appellant “is screened by Brightview.” A two-day jury trial was scheduled to begin on January 30, 2025.

{¶5} However, at a final pretrial hearing occurring on December 4, 2025, the State made a plea offer and on January 3, 2025, the parties came before the court for a change of plea. After the court accepted appellant’s plea, the court ordered a presentence investigation (PSI) and ordered that appellant phone in for the PSI interview “on time in a sober condition.”

{¶6} The record next reflects a Written Plea of Guilty and Judgment Entry form, was executed on January 3, 2025 and filed on January 7, 2025. The form demonstrates that appellant entered a plea of guilty to Count Two, Trafficking in a Fentanyl-Related Compound and the accompanying specifications. Trafficking in a Fentanyl-Related Compound, R.C. 2925.03(A)(2)/(C)(9)(f), remained a felony of the first degree but was reduced from the MDO designation. Appellant’s sentencing was scheduled for March 10, 2025.

{¶7} On March 6, 2025, appellant’s counsel filed a motion to continue the sentencing hearing due to a conflict with counsel’s schedule. On March

11, 2025, counsel again filed a motion to continue sentencing scheduled for March 13, 2025 due to appellant's diagnosis of pneumonia and RSV.¹ The trial court denied the second motion.

{¶8} At the March 13, 2025 sentencing, the hearing transcript reflects that the court addressed the attorneys as follows:

Well, prior to sentencing, the Bailiff informed me that there was concern that Mr. Mackey was visibly impaired. The court asked Chief Stackpole of the Washington County Adult Probation to conduct a urine drug screen of appellant.

{¶9} On the record, Chief Stackpole informed:

The Court: Were you able to get a read on whether or not Mr. Mackey is sober today, or at least enough to understand the proceedings?

Stackpole: With my experience in law enforcement and as a probation officer, I feel that he is under the influence of narcotics and with his actions and speech, I don't think he could understand the proceedings.²

{¶10} The trial court then stated:

Court: I am not willing to proceed with sentencing if Mr. Mackey is under the influence of an illicit substance, so based on the drug result and I am going to revoke Mr. Mackey's bond, take him into custody, and set this matter for sentencing. And I'd like to set it

¹ The record does not indicate that the first motion was granted but, for whatever reason, it appears the March 10th date was continued to March 13th.

² We observe that despite the appearance of this exchange in the hearing transcript, there is nothing indicating that Chief Stackpole was actually giving sworn testimony.

out with enough time for Mr. Mackey to have whatever substances that are in his system . . . at least passive, that he can understand the ramifications of what is happening at his sentencing.

{¶11} At this point, the March 13th transcript shows the trial court and the attorneys discussed dates for rescheduling. During the exchange with the attorneys, the trial court commented: “I’m just trying to find a time to . . . and because Mackey appeared impaired today, he is arguably in contempt of this court by appearing not in a sober condition, and so I’ll deal with that at sentencing as well.” The trial court did not make an explicit contempt finding on the original sentencing date.

{¶12} The record next reflects an entry dated March 14, 2025, indicating the bond revocation and continuance. On March 17, 2025, the record reflects “sentencing and contempt held March 17, 2025. The transcript of the March 17, 2025 sentencing hearing reflects the trial court’s following statements:

This matter comes before the Court today for sentencing in this case. It was previously scheduled on Thursday of last week. The Court had Mr. Mackey tested. He was positive for various illegal substances and the Court continued this matter to today. I believe on the record, the Court did make a finding of contempt and if it didn’t, he certainly was in contempt of this Court by appearing impaired, and imposition of sentence on that contempt was postponed to today as well.

{¶13} The trial court proceeded to impose a prison term on the underlying drug felony conviction. In discussing the seriousness factors of R.C. 2929.12, the court noted:

[H]e appeared, at least last Wednesday, impaired and with traces of multiple illegal substances in his urine. And I do not find that he shows any genuine remorse. He certainly, based on his activity in the jail and showing the contempt of this Court by appearing high, doesn't respond favorably to any direction or control.

{¶14} Further, the trial court made the following findings:

Now, with respect to the contempt, the Court does find again that you were in contempt of this Court's order. You appeared under the influence, impaired, unable to proceed. The Court will sentence you to thirty days for your contempt and that will run consecutively to this sentence because I find that imposition of consecutive sentences are necessary to protect the public from future crime and to punish the offender. Imposition of consecutive sentences are not disproportionate to the seriousness of the offender's conduct and the danger you pose to the public and it was committed while you were awaiting trial or sentence because you did that before you showed up here for sentencing.

{¶15} The court record further reflects a March 27, 2025 entry captioned Journal Entry: Sentencing Hearing Continued. The second paragraph of the entry is one sentence which states: "Whereupon the Court took note that Defendant DAKOTA D. MACKEY, was impaired." This entry is signed by the prosecutor, defense counsel, and the judge.

{¶16} The appealed-from Journal Entry: Sentencing was filed on March 31, 2025. The trial court imposed a mandatory prison term of ten years. The entry further provides in pertinent part:

The Court FURTHER ORDERS an additional sentence of thirty (30) days as a result of Defendant DAKOTA D. MACKEY appearing while under the influence to the original sentencing hearing date of March 13, 2025. These sentences will run consecutively with each other. The court further noted that “[t]hese crimes were also committed while the Defendant was awaiting trial or sentencing . . .”

{¶17} This appeal followed. Additional facts are set forth below.

ASSIGNMENTS OF ERROR

- I. THE TRIAL COURT ERRED BY CONVICTING MACKEY OF DIRECT CRIMINAL CONTEMPT AND BY IMPOSING A 30-DAY SANCTION TO RUN CONSECUTIVELY TO HIS FELONY DRUG SENTENCE.

Standard of Review - Criminal Contempt

{¶18} The decision of whether to find one in contempt of court rests in the sound discretion of the trial court and will not be overturned on appeal absent an abuse of that discretion. *See State v. Kilbane*, 61 Ohio St.2d 201, paragraph one of the syllabus, (1980); *State v. Lytle*, 2013-Ohio-2683, at ¶ 10 (4th Dist.); *Columbus v. Cicero*, 2013-Ohio-3010, at ¶ 11 (10th Dist.); *State v. Stacy*, 2023-Ohio-3942, at ¶ 28 (11th Dist.). Ordinarily, we would

review the court’s findings for an abuse of discretion. However, appellant did not challenge the contempt finding in the trial court.

{¶19} “ ‘ It is a general rule that an appellate court will not consider any error which counsel for a party complaining of the trial court's judgment could have called but did not call to the trial court's attention at a time when such error could have been avoided or corrected by the trial court.’ ” *State v. Shields*, 2023-Ohio-23331, at ¶ 72 (4th Dist.), quoting *State v. Childs*, 14 Ohio St.2d 56 (1968), paragraph three of the syllabus. “ ‘Thus, a party forfeits, and may not raise on appeal, any error that arises during trial court proceedings if that party fails to bring the error to the court's attention, by objection or otherwise, at a time when the trial court could avoid or correct the error.’ ” *In re Adoption of B.L.F.*, 2021-Ohio-1926, ¶ 25 (4th Dist.), quoting *Cline v. Rogers Farm Ents., LLC*, 2017-Ohio-1379, ¶ 47 (4th Dist.). “Appellate courts may, however, consider a forfeited argument using a plain-error analysis.” *Id.* at ¶ 27.

{¶20} Crim.R. 52(B) states: “Plain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the court.” It is the defendant's burden to “establish that an error occurred, it was obvious, and it affected his or her substantial rights.” *State v. Fannon*, 2018-Ohio-5242, at ¶ 21 (4th Dist.). “Notice of plain error under

Crim.R. 52(B) is to be taken with the utmost caution, under exceptional circumstances and only to prevent a manifest miscarriage of justice.” *State v. Long*, 53 Ohio St.2d 91 (1978), paragraph three of the syllabus. *See also State v. Greene*, 2018-Ohio-1965, ¶¶ 14, 23 (8th Dist.). Thus, because appellant did not challenge the contempt finding in the trial court, we review only for plain error.

Legal Principles

{¶21} “Contempt of court” is defined as the disobedience or disregard of a court order or a command of judicial authority. *See In re Parker*, 105 Ohio App.3d 31 (4th Dist.1995). (Citations omitted.) Contempt of court involves conduct which engenders disrespect for the administrator of justice or which tends to embarrass, impede or disturb a court in the performance of its function. *See Parker*, citing *Denovchek v. Trumbull Cty. Bd. of Commrs.*, 36 Ohio St.3d 14, 15 (1988); *Wyndham Bank v. Tomaszczyk*, 27 Ohio St.2d 55, (1971), at paragraph one of the syllabus. Contempt of court consists of acts or omissions that significantly obstruct the judicial process in any given case. *See In re Wingrove*, 2003-Ohio-549, at ¶ 13 (4th Dist.), citing *In re Davis*, 77 Ohio App.3d 257, 262 (2d Dist.1991). The law of contempt is intended to uphold and ensure the effective administration of justice, secure the dignity of the court, and to affirm the supremacy of law. *See Parker*,

citing *Cramer v. Petrie*, 70 Ohio St.3d 131, 133 (1994). The power of the common pleas courts to punish contemptuous conduct is derived from its inherent authority. See *Parker*, citing *Burt v. Dodge*, 65 Ohio St.3d 34, 35 (1992); *Zakany v. Zakany*, 9 Ohio St.3d 192 (1984), syllabus. See, e.g., R.C. 2705.01 and 2705.02.

{¶22} There is a distinction between civil and criminal contempt. *ConTex, Inc. v. Consol. Technologies, Inc.*, 40 Ohio App.3d 94, 95 (1st Dist.1988); *Schrader v. Huff*, 8 Ohio App.3d 111, 112 (9th Dist.1983). Civil contempt exists when a party fails to do something ordered by the court for the benefit of an opposing party. *Pedone v. Pedone*, 11 Ohio App.3d 164, 165 (8th Dist.1983); *Beach v. Beach*, 99 Ohio App. 428, 431 (2d Dist.1955). Punishment is remedial, or coercive, in civil contempt. *State ex rel. Henneke v. Davis*, 66 Ohio St.3d 119, 120 (1993). It is meant to enforce compliance with the court's orders.

{¶23} By contrast, criminal contempt proceedings vindicate the authority of the legal system and punish the party who offends the court. *Scherer v. Scherer*, 72 Ohio App.3d 211, 214 (3d Dist.1991); *In re Skinner*, 1994 WL 93149, at *15 (4th Dist.1994). The sanction imposed for criminal contempt clearly operates as a punishment for the completed act of

disobedience. *Brown v. Executive 200, Inc.*, 64 Ohio St.2d 250, 254 (1980).

R.C. 2705.01 provides in part:

[a] court, or judge at chambers, may summarily punish a person guilty of misbehavior in the presence of or so near the court or judge as to obstruct the administration of justice.

In this case, the trial court's sentence of 30 days jail is clearly punishment for appellant's actions in appearing impaired at his original sentencing date. Thus, the contempt is criminal in nature.

{¶24} There is yet another distinction to be made between direct and indirect contempt of court. *See Parker, supra*, at 674 citing *In re Purola*, 73 Ohio App.3d 306, 310 (Dist.1991) and *McGill v. McGill*, 3 Ohio App.3d 455, 456 (2d Dist.1982). A direct contempt is one committed in the presence of the court, whereas an indirect contempt is one committed outside its presence. *In re Lands*, 146 Ohio St. 589, 595 (1946). *See also In re Contempt of Wallace*, 2024-Ohio-966, at ¶ 8 (8th Dist.). This is an important distinction. A party charged with indirect contempt for violating an order outside the presence of the court must be afforded a hearing. R.C. 2705.03. Contemptuous actions within the presence of the court, however, may be summarily punished. R.C. 2705.01. *See generally, Parker, supra. See also Cicero, supra*, at ¶ 24 ("Where the contempt is committed directly under the eye or within the view of the court, it may proceed 'upon its own

knowledge of the facts, and punish the offender, without further * * * proof, and without issue or trial in any form.’ ” *Cooke v. United States*, 267 U.S. 517, 535 (1925)).

Analysis

{¶25} At the outset, we observe that while appellant argues that the court had no authority to order that he be tested and that the drug test was not made part of the record, at no point does appellant specifically argue that he was not, in fact, impaired at his original sentencing. As noted, appellant did not object to the contempt finding on the initial sentencing date or on the rescheduled date. On appeal, appellant seemingly concedes his impairment or intoxication.

{¶26} At page two of his brief, appellant argues that the court convicted him of direct criminal contempt because “[h]e had used drugs that impaired his ability to participate in the initial sentencing hearing.” At page four, appellant argues that “Mackey’s impairment was beyond the trial court’s knowledge.” Later at page four, appellant argues that “Mackey’s impairment was no immediate threat to the proceedings.” At page five, appellant argues “Mackey’s intoxication was akin to a defendant skipping a hearing . . .” Importantly, we also note the Journal Entry: Sentencing Hearing Continued, dated March 27, 2025, states: “Whereupon, the Court

took note that Defendant, DAKOTA D. MACKEY, was impaired.” This entry was signed by appellant’s counsel. This entry may be construed as an admission.

{¶27} In *State v. Lytle*, 2013-Ohio-2683, (4th Dist.), this Court summarily overruled Lytle’s assignment of error because the transcript of the June 4, 2012 contempt hearing revealed that Lytle admitted to being in contempt of court by the contumacious act of showing up 45 minutes late for court. We held, “Suffice it to say, an admission of an act is sufficient to overcome any argument the trier of fact’s finding of said act is against the manifest weight of the evidence.” *Id.* at ¶ 16.

{¶28} In *State v. Graham*, 2014-Ohio-3149, we noted that the trial court did not act unreasonably in finding Graham guilty of direct criminal contempt. There Graham argued that “had the court not opined that [he] was a liar,” the exchange which occurred and resulted in the contempt finding would not have occurred. We noted that Graham did not suggest on appeal that the trial court *erred* in referring to him as a liar. *Id.* at ¶ 27. *See e.g. Business Backer, LLC v. SSC Services Inc.*, 2025-Ohio-303, at ¶ 9 (2d Dist.) (In appeal of summary judgment proceedings, because appellant apparently conceded liability in the brief there was nothing before the court to address). While we would be within our authority to summarily overrule appellant’s

assignment of error, in the interests of justice we will briefly address the issues raised.

{¶29} Appellant argues that the trial court abused its discretion in finding him in direct contempt of the court because (1) his impairment was beyond the trial court's personal knowledge; (2) the drug test relied upon by the trial court was not made part of the record; and (3) he did not present an immediate threat to the proceedings. Because these arguments relate to the sufficiency of the evidence supporting the contempt finding, we will consider them jointly.

Did the judge have personal knowledge of
appellant's impairment?

{¶30} Appellant first points out that the trial court relied on the bailiff's observations and a chemical test instead of relying upon the court's own personal knowledge. Appellant directs us to *State v. Stafford*, 2013-Ohio-4356 (7th Dist.), in support. There, the Seventh District court reversed the judgment of the trial court and dismissed the contempt charge because the contempt conviction was explicitly based on a drug test not part of the record.

{¶31} At Stafford's pretrial hearing, the trial court believed Stafford presented to court while under the influence of drugs and alcohol and ordered a drug test to be performed immediately. The judge interpreted the

results as positive for methamphetamines. The court then cited *Stafford* for direct contempt and imposed 30 days in jail, effective immediately. The *Stafford* court also observed that it is generally left to the judge's own discretion to determine what actions are so disruptive that the original proceeding must be stopped.

{¶32} Appellant argues, as in *Stafford*, that his impairment was not based on the trial court's personal knowledge. The *Stafford* court noted, "if the trial judge had simply observed her behavior and concluded that she had voluntarily impaired herself to the point that the hearing could not continue, we would undoubtedly affirm the direct contempt citation and penalty." *Id.* at ¶ 12. The court continued:

The unusual aspect of this case is that the trial judge, based on no recognized authority, sua sponte ordered a drug test to be immediately administered and then used the results of this drug test rather than Appellant's conduct in court as the basis to convict her of direct contempt. We must further note that no such test results appear in the record. Appellant argued that her mannerisms in court followed her normal behavior patterns but the judge did not believe her. The judge stated that she would "rely upon the test of this Court."

Finally, the appellate court also noted that despite the trial court's impression that *Stafford* could not participate in the hearing due to her impaired state, the hearing continued for a considerable length of time after the judge cited and penalized her for contempt. The *Stafford* court

ultimately found an abuse of discretion, reversed the trial court's judgment, and dismissed the contempt charge.

{¶33} We are mindful that *Stafford* is persuasive authority. Our research has led us to additional persuasive authority from the Tenth District, *Columbus v. Cicero*, 2013-Ohio-3010. Cicero was charged for speeding. At his March 22, 2012 arraignment, appearing pro se, Cicero made representation to the judge regarding a plea agreement. The judge told Cicero to provide a proposed judgment entry. When Cicero later provided the entry, it did not contain a disposition of the original charge and the name of the prosecutor. Cicero was found in contempt after he refused to answer questions regarding the supposed plea deal.

{¶34} The record demonstrated that the judge's bailiff contacted Cicero by telephone and appellant refused to provide the name of the prosecutor who had allegedly offered the plea deal. The judge himself contacted appellant by telephone and Cicero again refused to provide the name. On April 6, 2012, appellant turned himself in after a heated telephone exchange the day before in which the judge said he was going to issue a warrant for Cicero's arrest for lying to the court. In open court, appellant still refused to provide information. At that point, the judge revoked bond and continued the matter.

{¶35} Cicero remained in jail through a long holiday weekend and appeared in court with counsel on April 10, 2012. Counsel offered an apology on behalf of Cicero and stated that “my client recognizes that his failure to answer the question delayed the court proceedings.” The underlying matter was resolved. The single judgment entry found appellant guilty of speeding and further provided “as to the contempt, defendant entered an admission . . . The contempt is based on the delay to the judicial system as a whole.”

{¶36} On appeal, Cicero raised several assignments of error, including that the trial court abused its discretion by summarily finding him in contempt even though the court did not have personal knowledge of the allegedly contumacious act. The appellate court found that the contumacious conduct occurred either in telephone conversations with the judge or in court and thus, was direct.

{¶37} Cicero’s counter-argument was that the judge erred by considering information he received from the prosecutor and from his own bailiff in assessing appellant’s culpability. The appellate court wrote:

In the opinion of this court, the record shows that the conduct that formed the basis of the contempt order was within Judge VanDerKarr’s personal knowledge. Moreover, to the extent that the April 6, 2012 contempt order was based upon information that became known to Judge VanDerKarr from sources other than appellant, such

information was obtained from court officers, either in chambers or at the April 6, 2012 hearing.

The *Cicero* court found no merit to the argument that the information was not within the judge's personal knowledge and overruled the assignment of error. This court and at least one other have observed that bailiffs are conduits between attorneys and judges and, in that capacity, bailiffs relay information on any number of issues. *See Baldwin v. Baldwin*, 2026-Ohio-, citing *First National Bank of S.W. Ohio v. Doellman*, 2006-Ohio-1663, at ¶ 16 (12th Dist.).

{¶38} Upon review, we are not inclined to follow the Seventh District's stricter approach. The *Stafford* court emphasized that it found the lower court proceedings highly irregular because of the lack of test results in the record and because the State could not cite a reasonable explanation supporting the court's right to order an immediate drug test. Here, a reasonable explanation for requiring appellant's test did exist - Chief Stackpole's information that appellant had appeared "visibly impaired."

{¶39} Moreover, we are not convinced that the trial court relied solely upon Chief Stackpole's information regarding the drug test. The trial court also personally observed appellant. On March 13, 2024, when the trial court had determined that he was revoking bond and continuing sentencing, the

court inquired as to the attorneys' schedules and availability. After a new date was determined, the trial court inquired:

Court: Is there anything further wanted?

A.D. No, thank you.

Court: Attorney Blakeslee?

Defendant: Can I say something?

Court: No. Thank you. We're in recess.

{¶40} While the record references the drug test and Chief Stackpole's information, appellant was physically present before the court. The court was able to observe appellant's demeanor and presentation. The trial court spoke directly to appellant.

{¶41} The trial court is presumed to know the law and to apply it correctly. *See In re Watson*, 47 Ohio St.3d 86, 92 (1989); *McNichols v. Gouge Quality Roofing, LLC*, 2022-Ohio-3294, at ¶ 46 (4th Dist.). We have no reason to believe the court relied on the Chief's information and the drug test to the exclusion of its own in court observations of appellant's physical presentation and mental acuity in the courtroom. We do not find plain error occurred due to an alleged lack of the court's personal knowledge. Thus, the first argument is without merit.

Was evidence of appellant's impairment established
beyond a reasonable doubt?

{¶42} Appellant also argues that direct criminal contempt must be established beyond a reasonable doubt. Appellant points out that the court ordered a warrantless drug test; he did not consent to a drug test; and there was no active order forbidding intoxication. Appellant concludes that the trial court abused its discretion due to insufficient evidence of direct criminal contempt. It is true that a criminal contemnor has the right to be found guilty beyond a reasonable doubt. *See In re Wisener*, 2022-Ohio-4557, at ¶ 25 (7th Dist.), citing *Gompers v. Bucks Stove & Range Co.*, 221 U.S. 418, 444 (1911).

{¶43} In *Stafford*, the defendant argued that her mannerisms in court were normal, yet the judge explicitly stated that she would “rely upon the test of this Court.” Here again, appellant argues a technicality about the drug test not being part of the record, but at no time has he contested the actual finding of impairment. And while appellant argues that there was no active order forbidding his drug use and intoxication, it seems disingenuous to make this argument, given the terms of his personal recognizance bond which specified “commit no new criminal violations,” and the trial court’s in-court admonition to participate in his presentence investigation “in a sober condition.” Consequently, we find no merit to appellant’s argument herein.

Did appellant present an immediate threat to the dignity of the court?

{¶44} Appellant next argues that “Mackey’s intoxication was not an immediate threat to the proceedings” because the sentencing was never commenced to be disrupted. This is again disingenuous. Even the *Stafford* court observed “no distinction between failing to appear at a hearing and voluntarily impairing one’s ability to participate in a hearing.” *Id.* at ¶ 10. It seems beyond question that appearing intoxicated or impaired at a court proceeding is contemptuous conduct. Appellant’s appearance in an impaired state disrupted the court’s efforts to conduct the initial sentencing hearing. *See State v. Stacy*, 2023-Ohio-3942, at ¶ 30-31 (Stacy’s conduct during sentencing was not merely disrespectful but was uncooperative so as to frustrate the trial court’s ability to conduct a proper sentencing hearing).

{¶45} “ ‘[T]he power of summary direct contempt should be restricted to a conduct that tends to impede, embarrass, or obstruct the court in the performance of its duties.’ ” *See Wallace, supra*, quoting *State v. Fortson*, 2002-Ohio-1, at *3 (8th Dist.). In *State v. Graham*, 2014-Ohio-3149 (4th Dist.), this court noted:

By its very nature, direct contempt of court is a very subjective determination which is never adequately portrayed by the written transcript. *See State v. McDew*, 2011-Ohio-1196, at ¶ 31 (5th Dist.). Because of its subjective nature and the fact that the actual dynamics of

the situation are best viewed by the trial court, it is difficult to second-guess the trial court. *Id.*

Graham, at ¶ 26.

{¶46} Appellant further asserts that the trial court was not forced to act summarily to preserve the authority and dignity of the court. He points out that the court deemed his impairment “arguable” and the sanction was imposed four days later at sentencing. Appellant argues that the delay in imposing the sanction demonstrates there was no immediate threat to the order and dignity of the courtroom. Seen in this light, appellant concludes that he was “potentially liable” for indirect contempt and that the court abused its discretion because appellant was entitled to due process protections.

{¶46} Once the contempt power is classified as criminal, the contemnor is entitled to those rights and constitutional privileges afforded a defendant in a criminal action. *See Winkler v. Winkler*, 81 Ohio App.3d 199, 202 (9th Dist.1991); *Schrader, supra*, at 112. The most important of these are the contemnor's right to due process, *Winkler, supra*, 81 Ohio App.3d at 202, which includes the rights of one charged with contempt to be advised of the charges against her and to have a reasonable opportunity to meet them by way of defense or explanation, as well as the chance to testify and to call other witnesses on her behalf. *See In re Yeager*, 83 Ohio App.3d 493, 497

(3d Dist.1992); *see also In re Oliver*, 333 U.S. 257 (1948). While this matter is somewhat complicated by the fact that appellant was not actually deemed impaired or sanctioned on the original sentencing date, we do not find it fatal to the trial court's actions.

{¶47} We do not find it problematic that the trial court did not make the actual contempt finding until the continued sentencing date four days later. “A modern-day trial court has aptly been compared, in legal circles, to a hospital emergency room in terms of the stress that is placed on the people who are there on a daily basis, i.e., the judges, attorneys, and litigants These varied and chaotic circumstances all pose the risk of distracting trial courts” *State v. Gwynne*, 2019-Ohio-4761, at ¶ 83 (Donnelly, J., dissenting.). While the trial court should have made the direct contempt finding on the initial sentencing date and should have imposed the sanction on that date, the court apparently continued everything so that appellant could understand *everything* that was taking place. And it is well-established that a trial court also has inherent authority to control its own docket and manage the cases before it. *See Baldwin v. Baldwin*, 2026-Ohio-1852, at ¶ 18 (4th Dist.), citing *Teays Valley Local School District Board of Education v. Struckman*, 2023-Ohio-244, at ¶ 48 (4th Dist.). Appellant's conduct disrupted the trial court's schedule on two separate dates.

{¶48} We view the continued sentencing and the fact that the trial court dealt with the contempt issue at the same time as a consolidation of hearings. Arguably, this did provide appellant with additional due process protections. Appellant was actually given four additional days to prepare to contest the allegation of impairment. Yet, he apparently chose not to contest the contempt finding in the trial court.

{¶49} In *Graham*, we observed that under the highly deferential abuse-of-discretion standard, we would not lightly substitute our interpretation of a contempt order for that of an issuing court. *Id.* at ¶ 24. Graham’s disruptive and contumacious behavior occurred at a sentencing hearing and he was summarily punished. This Court noted that “under the circumstances . . . [a] contrary ruling would permit parties to lie under oath, interrupt the trial court when the party is caught lying, and ignore repeated warnings from the court and even the party’s counsel to be quiet without repercussion.” *Id.* at ¶ 29. Similarly, under these circumstances, a contrary ruling would permit a party to appear obviously impaired at a court proceeding without repercussion. We find that the trial court’s implicit finding that appellant presented an immediate threat to the dignity of the court does not constitute plain error.

Was the imposition of consecutive sentences plain error?

{¶50} Appellant set forth several issues under his sole assignment of error, which we have jointly resolved. Appellant also raises a sentencing issue as follows:

The trial court abused its discretion by holding that the Consecutive-Sentencing Statute authorized the consecutive service of the 30-day contempt sanction to the felony drug sentence.

{¶51} First, we observe that App.R. 12(A)(2) and 16(A)(7) required appellant to separately argue each assignment of error. Appellant did not separately assign error based on his consecutive sentence. Therefore, we need not consider his consecutive sentence claim within discussion of his assignment of error concerning the contempt finding itself. *See e.g. State v. Armstrong*, 2026-Ohio-245, at ¶ 23 (4th Dist.) and *State v. Barnes*, 2025-Ohio-1967, at ¶ 50 (12th Dist.). We would be within our authority to decline consideration of this argument.

{¶52} Next, we observe that at sentencing on the underlying felony and contempt, appellant did not object to imposition of the consecutive sentence. Therefore, our review, if any, is limited to determining whether the trial court plainly erred. *See State v. Spencer*, 2023-Ohio-59, at ¶ 34 (4th Dist.), citing *State v. Barnes*, 94 Ohio St.3d 21, 27 (2002). However, in the interests of justice, we briefly address the sentencing issue and find no merit.

{¶53} Appellant argues that the trial court abused its discretion by holding that the consecutive sentencing statute authorized consecutive service of the contempt sanction and appellant's ten-year minimum drug sentence. We need not address this contention because we find that the trial court's authority to order consecutive sentences is based on the trial court's inherent authority to punish contempt. While the court need not have discussed the contempt sanction within the consecutive sentence analysis and findings, the trial court's imposition of a consecutive sentence on the contempt sanction to the underlying felony sentence was not plain error.

{¶54} In *State v. King*, 2002-Ohio-7228, (8th Dist.), the appellate court did not find the trial court's decision to order sentences for contempt to be served consecutively to sentence for an underlying felony to be an abuse of discretion. The appellate court wrote:

The power to hold a party in direct contempt is intended to vindicate the authority of the court. *Denovchek v. Trumbull Cty. Bd. of Commrs.*, 36 Ohio St.3d 13,14 (1988). That power, and the punitive aspect that is necessarily implied in wielding that power would be ineffective if the court were required to impose a jail term concurrent with a prison sentence for the underlying felony. Serving punishment for contempt concurrently with another prison sentence would carry no practical consequences for contemptuous conduct.

See King, at ¶ 17. We agree wholeheartedly with *King's* reasoning in support of consecutive sentencing of contempt sanctions. *See also City of*

Bellevue v. Greer, 2025-Ohio-5775, at ¶ 40 (6th Dist.) (Where trial court ordered defendant to serve 70 days in jail for contempt and also ordered non-suspended days on misdemeanor traffic infractions to be served consecutively for a total of 90 days, the court found no abuse of discretion as the 70-day jail sentence was within court’s inherent authority to punish contempt).

{¶55} Based on the foregoing, we find no merit to appellant’s contention that the trial court erred by ordering his contempt sanction to be served consecutively with the underlying felony sentence. However, we affirm for a different reason than the one indicated by the trial court. “ ‘The affirmance of a judgment by a reviewing court is not an affirmance of the reasons given by the lower court for its rulings,’ ” and “ ‘[r]eviewing courts affirm and reverse judgments, not reasons.’ ” *State v. Landrum*, 2018-Ohio-1280, at ¶ 25 (4th Dist.), quoting *State v. Rubes*, 2012-Ohio-4100, at ¶ 32 (11th Dist.); *See also State v. Boone*, 2017-Ohio-843, ¶ 5 (10th Dist.).

{¶56} Having found no merit to appellant’s assignment of error, the judgment of the trial court is affirmed.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT BE AFFIRMED and that costs be assessed to appellant.

The Court finds there were reasonable grounds for this appeal.

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

IF A STAY OF EXECUTION OF SENTENCE AND RELEASE UPON BAIL HAS BEEN PREVIOUSLY GRANTED BY THE TRIAL COURT OR THIS COURT, it is temporarily continued for a period not to exceed 60 days upon the bail previously posted. The purpose of a continued stay is to allow Appellant to file with the Supreme Court of Ohio an application for a stay during the pendency of proceedings in that court. If a stay is continued by this entry, it will terminate at the earlier of the expiration of the 60-day period, or the failure of the Appellant to file a notice of appeal with the Supreme Court of Ohio in the 45-day appeal period set forth in the Rules of Practice of the Supreme Court of Ohio. Additionally, if the Supreme Court of Ohio dismisses the appeal prior to expiration of 60 days, the stay will terminate as of the date of such dismissal.

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

Abele, J. and Wilkin, J., concur in Judgment and Opinion.

For the Court,

Jason P. Smith
Presiding 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.