

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

State of Ohio,	:	Case No. 26CA4184
Plaintiff-Appellee,	:	<u>DECISION AND</u>
v.	:	<u>JUDGMENT ENTRY</u>
Corey Richardson,	:	
Defendant-Appellant.	:	RELEASED 9/29/2026

APPEARANCES:

Brian T. Goldberg, Cincinnati, Ohio, for appellant.

Shane A. Tieman, Prosecuting Attorney, and Jay Willis, Assistant Prosecuting Attorney, Portsmouth, Ohio, for appellee.

Hess, J.

{¶1} Corey Richardson appeals from a judgment of the Scioto County Common Pleas Court convicting him, following a guilty plea, of trafficking in a fentanyl-related compound, trafficking in cocaine, and improperly handling firearms in a motor vehicle. Richardson presents one assignment of error asserting that the trial court erred to his prejudice by improperly sentencing him to consecutive prison terms. For the reasons which follow, we overrule the assignment of error and affirm the trial court's judgment.

I. FACTS AND PROCEDURAL HISTORY

{¶2} In February 2025, Richardson was indicted on four counts: (1) Count One – trafficking in a fentanyl-related compound, a first-degree felony; (2) Count Two – possession of a fentanyl-related compound, a first-degree felony; (3) Count Three – trafficking in cocaine, a second-degree felony; and (4) Count Four – possession of cocaine, a second-degree felony. Counts One and Two alleged that the amount of the drug involved equaled or exceeded 50 grams but was less than 100 grams, and Counts Three and Four alleged that the amount of the drug involved equaled or exceeded 20 grams but was less than 27 grams. Counts One and Three had firearm specifications. Count One also had a forfeiture specification for \$3,291.

{¶3} In August 2025, a superseding indictment was filed which alleged five counts. Counts One through Four were largely identical to the original indictment, but: (1) a forfeiture specification for a gun was added to Count One; (2) the Count One forfeiture specification for money was for \$3,294.80 instead of \$3,291; (3) a firearm specification and forfeiture specifications for the gun and money were added to Counts Two and Four; and (4) forfeiture specifications for the gun and money were added to Count Three. Count Five was for improperly handling firearms in a motor vehicle, a fourth-degree felony.

{¶4} In February 2026, Richardson pleaded guilty to one count of trafficking in a fentanyl-related compound with money and gun forfeiture specifications, as amended to reduce the amount of the drug involved to equal to or exceeding 20 grams but less than 50 grams. This amendment did not change the degree of the offense but changed the penalty from a mandatory maximum prison term for a first-degree felony to a mandatory prison term of one of the prison terms prescribed for a first-degree felony. See R.C.

2925.03(C)(9)(f)-(g). Richardson also pleaded guilty to one count of trafficking in cocaine with money and gun forfeiture specifications, a second-degree felony, and one count of improperly handling firearms in a motor vehicle, a fourth-degree felony.

{¶5} At the change of plea/sentencing hearing, the parties explained that they agreed to jointly recommend a sentence of six to nine years in this case but argue to the court about whether that sentence should run consecutive or concurrent with a prison term Richardson was currently serving in Ross County Case Number 24CR450, which also involved fentanyl. The State explained that it recommended consecutive service because “[t]hese were pretty serious charges,” and Richardson’s criminal record was “pretty significant.” He was “adjudicated on a robbery” as a juvenile, “convicted of corrupt activity” in Greene County Case Number 2014CR95, convicted of grand theft in Montgomery County Case Number 23CR02464, and arrested in this case while the Ross County case was pending.

{¶6} Defense counsel asked the court to run the sentence in this case concurrent with the three-year mandatory sentence Richardson was serving in the Ross County case. Counsel acknowledged Richardson had “a bit of a prior criminal history” but argued that there was “more story to that.” Counsel stated that “[t]he Dayton convictions back in 2011” occurred when Richardson was a juvenile. His 2014 conviction in Greene County occurred “shortly after that.” Then, there was an approximately ten-year period in which Richardson did not reoffend and had no convictions. Counsel asserted that “[t]he big-ticket item” was the “Ross County sentence for an F1 possession.” But “when looking at that indictment, looking at that timeline, that coincides with the transaction occurrence

that we're here for today. So, this isn't a situation to where he was sentenced out of Ross County then went and reoffended. It was right around the same time."

{¶7} Richardson told the court that he "was just around the wrong people at the wrong time" and "wasn't the - - the main part of the situation. I was just around it." He told the court that his son was "autistic a little bit," that "running it consecutive would be, you know, nine years," and his son needed him around more so that he could "learn more or whatever." His son's mom "caught pneumonia, so she's trying and it's just a lot." He asked for a sentence "fair enough for me to get home to my son and be a dad (inaudible)." Defense counsel then said Richardson had been a pleasure to deal with, respectful to him and the court, and courteous to jail staff.

{¶8} The court sentenced Richardson to a mandatory minimum prison term of 6 years to an indefinite maximum prison term of up to 9 years for trafficking in a fentanyl-related compound, 4 years for trafficking in cocaine, and 18 months for improperly handling firearms in a motor vehicle. The court ordered that those sentences run concurrently with each other. Thus, the court imposed the jointly recommended aggregate sentence of six to nine years. The court ordered that the sentences in this case run consecutively with the sentence Richardson was currently serving. At the sentencing hearing and in the sentencing entry, the court found that consecutive sentences were necessary to protect the public from future crime or to punish Richardson and were not disproportionate to the seriousness of his conduct and to the danger he poses to the public. The court also found that one or more of the offenses were committed while Richardson was awaiting trial or sentencing and that his criminal history showed that consecutive terms were needed to protect the public from future crime by him. The court

notified Richardson that postrelease control was mandatory for up to five years but not less than two years. The court also ordered that the U.S. currency and firearm seized in the case be forfeited to the State and dismissed all remaining counts.

II. ASSIGNMENT OF ERROR

{¶9} Richardson presents one assignment of error: “The trial court erred to the prejudice of Mr. Richardson by improperly sentencing him to consecutive prison terms.”

III. CONSECUTIVE SENTENCES

A. Positions of the Parties

{¶10} In his sole assignment of error, Richardson contends the trial court erred to his prejudice by improperly sentencing him to consecutive prison terms. Richardson maintains that while the court made the necessary findings to impose consecutive sentences, they are unsupported by the record. Richardson claims consecutive sentences were not necessary to protect the public from future crime or punish him and that they were disproportionate to the seriousness of his conduct and to the danger he poses to the public. Richardson asserts that at the time of sentencing, he was already serving a three-year sentence out of Ross County and that a six-year sentence concurrent with the three-year sentence would have been sufficient to protect the public from future crime and punish him. Richardson asserts that not only would he have to serve six years, but he would also be supervised under postrelease control for at least two years after his release, and if he violates postrelease control, he would be sanctioned by being returned to the Department of Corrections. In addition, he received an indeterminate sentence, and if he misbehaves in prison or creates a security risk, the Department of Corrections has the means to hold him longer than six years, and if he behaves and shows he has

been rehabilitated, he will be “released at the appropriate time” and presumably “be less of a threat to society” due to his rehabilitation in prison. Richardson also asserts that his juvenile adjudication was from 2011 and that there was a 2014 conviction, but then he went about ten years “before the Ross County charges which occurred around the same time as these offenses.” Thus, while he has some criminal history, he has “demonstrated he can lead a law abiding life,” and his history does not show consecutive sentences were necessary to protect the public from future crime.

{¶11} The State acknowledges that “the parties did not stipulate to the consecutive sentence.” But the State maintains that the sentence was within the statutory range, an agreed joint recommended sentence, and not a maximum sentence, so the court did not have to make consecutive-sentencing findings, and the sentence is not reviewable on appeal pursuant to R.C. 2953.08(D)(1). The State also asserts that the court “did make the proper findings which support the imposition of a consecutive term to the one [Richardson] was already serving from Ross County.” And Richardson “has failed to show an abuse of discretion in the sentencing hearing conducted by the trial court.”

B. Law and Analysis

{¶12} R.C. 2953.08 addresses appeals based on felony sentencing guidelines.

R.C. 2953.08(G)(2) states:

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.

{¶13} However, R.C. 2953.08(D)(1) states: “A sentence imposed upon a defendant is not subject to review under this section if the sentence is authorized by law, has been recommended jointly by the defendant and the prosecution in the case, and is imposed by a sentencing judge.” “The General Assembly intended a jointly agreed-upon sentence to be protected from review precisely because the parties agreed that the sentence is appropriate. Once a defendant stipulates that a particular sentence is justified, the sentencing judge no longer needs to independently justify the sentence.” (Emphasis deleted.) *State v. Sergeant*, 2016-Ohio-2696, ¶ 21, quoting *State v. Porterfield*, 2005-Ohio-3095, ¶ 25.

{¶14} As the State points out, in *Sergeant*, the Supreme Court held that “in the context of a jointly recommended sentence that includes nonmandatory consecutive sentences, a trial court is not required to make the consecutive-sentence findings set out in R.C. 2929.14(C)(4).” *Id.* at ¶ 43. “Accordingly, when a trial judge imposes such an agreed sentence without making those findings, the sentence is nevertheless ‘authorized by law’ and not reviewable on appeal pursuant to R.C. 2953.08(D)(1).” *Id.* And if the court nonetheless makes the findings, they need not be supported “with sufficient evidence on the record.” *State v. Riggins*, 2025-Ohio-3028, ¶ 10 (4th Dist.), quoting *State v. Ross*, 2017-Ohio-9400, ¶ 71 (4th Dist.).

{¶15} But in this case, while the parties jointly recommended an aggregate sentence of six to nine years, which the court imposed, they did not jointly recommend that the aggregate sentence run consecutive with the Ross County sentence. Instead,

they made arguments to the court as to whether the aggregate sentence in this case should run consecutive or concurrent with the sentence in the Ross County case, with the State arguing that it should run consecutive and Richardson arguing that it should run concurrent with the sentence in the Ross County case. Thus, we conclude R.C. 2953.08(D)(1) does not prohibit review of Richardson's consecutive-sentencing challenge, and the trial court did have to justify the imposition of consecutive sentences.

{¶16} The trial court made the findings necessary to impose consecutive sentences pursuant to R.C. 2929.14(C)(4), which states:

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.

{¶17} We do not clearly and convincingly find that the record does not support the trial court's findings under R.C. 2929.14(C)(4). Richardson pleaded guilty to trafficking large quantities of a fentanyl-related compound and cocaine and improperly handling firearms in a motor vehicle. In addition, he had a criminal history dating back to 2011,

which the record indicates included a robbery-related juvenile adjudication that year, a conviction for “corrupt activity” in a 2014 case, a conviction for grand theft in a 2023 case, and a conviction for first-degree felony possession of fentanyl in a 2024 case. Although no charges were filed against Richardson from 2015 to 2022, this was the third case in which charges were filed against him, and in which he was convicted, since 2023. Given these facts, the court could conclude that consecutive service was necessary to protect the public from future crime or to punish Richardson, that consecutive sentences were not disproportionate to the seriousness of his conduct and to the danger he poses to the public, and that his history of criminal conduct demonstrated that consecutive sentences were necessary to protect the public from future crime by him.

{¶18} We observe that R.C. 2929.14(C)(4) requires that the trial court make at least one of three alternative findings in R.C. 2929.14(C)(4)(a)-(c). While Richardson challenges the court’s R.C. 2929.14(C)(4)(c) finding regard his history of criminal conduct, he does not challenge the court’s alternative R.C. 2929.14(C)(4)(a) finding, i.e., that he committed one or more of the multiple offenses while awaiting trial or sentencing. Therefore, even if we had clearly and convincingly found that the record does not support the R.C. 2929.14(C)(4)(c) finding, we would still have to uphold the alternative R.C. 2929.14(C)(4)(a) finding. See *State v. Conn*, 2024-Ohio-1920, ¶ 22 (4th Dist.) (reaching a similar conclusion and quoting *Schutte v. Summit Cty. Sheriff's Office*, 2018-Ohio-2565, ¶ 21 (9th Dist.), for the proposition that “[w]hen a trial court grants judgment on multiple, alternative bases and an appellant does not challenge one of those bases on appeal, this Court will uphold the judgment on the unchallenged basis”).

{¶19} Accordingly, we conclude that the trial court did not err to the prejudice of Richardson by improperly sentencing him to consecutive prison terms, overrule the sole assignment of error, and affirm the trial court's judgment.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT IS AFFIRMED and that 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 Scioto 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.

Smith, P.J.: Concur in Judgment and Opinion.

Judge Peter B. Abele concurred in this Judgment and Opinion prior to his death on September 25, 2026.¹

For the Court

BY: _____
Michael D. Hess, 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.

¹ The Ohio Constitution requires the concurrence of at least two judges when rendering a decision of a court of appeals. Therefore, this announcement of decision is in compliance with constitutional requirements. See *State v. Pembaur* (1982), 69 Ohio St.2d 110.