

**IN THE OHIO COURT OF APPEALS
FIFTH APPELLATE DISTRICT
MUSKINGUM COUNTY, OHIO**

STATE OF OHIO

Plaintiff - Appellee

-vs-

BRANDON PITTS

Defendant - Appellant

Case No. CT2026-0033

Opinion And Judgment Entry

Appeal from the Court of Common Pleas, Case
No. CR2025-0774

Judgment: Affirmed

Date of Judgment Entry: August 17, 2026

BEFORE: Andrew J. King; Craig R. Baldwin; David M. Gormley, Judges

APPEARANCES: JOSPEH A. PALMER, for Plaintiff-Appellee; APRIL F. CAMPBELL,
for Defendant-Appellant.

King, P.J.

{¶ 1} Defendant-Appellant, Brandon Pitts, appeals his March 17, 2026 sentence from the Muskingum County Common Pleas Court. Plaintiff-Appellee is the State of Ohio. We affirm the trial court.

FACTS AND PROCEDURAL HISTORY

{¶ 2} On December 11, 2025, the Muskingum County Grand Jury indicted Pitts on one count of aggravated burglary in violation of R.C. 2911.11 (first degree) and one count of abduction in violation of R.C. 2905.02 (third degree).

{¶ 3} By plea of guilty form filed February 18, 2026, Pitts pled guilty to an amended count of burglary (third degree) and an amended count of attempted abduction (fourth

degree). By entry filed February 20, 2026, the trial court accepted Pitts's plea, finding it was made knowingly, voluntarily, and intelligently.

{¶ 4} A sentencing hearing was held on March 16, 2026. By entry filed March 17, 2026, the trial court sentenced Pitts to the maximum sentences of thirty-six months on the burglary count and eighteen months on the attempted abduction count, to be served consecutively for a total term of fifty-four months in prison.

{¶ 5} Pitts filed an appeal with the following assignment of error:

I

{¶ 6} "PITTS' SENTENCES SHOULD BE REVERSED: THE TRIAL COURT'S DECISION TO IMPOSE MAXIMUM CONSECUTIVE SENTENCES SHOULD BE VACATED."

I

{¶ 7} In Pitts's sole assignment of error, he claims the trial court erred in sentencing him to maximum consecutive sentences. We disagree.

{¶ 8} This court reviews felony sentences using the standard of review set forth in R.C. 2953.08. *State v. Marcum*, 2016-Ohio-1002, ¶ 22; *State v. Howell*, 2015-Ohio-4049, ¶ 31 (5th Dist.). Subsection (G)(2) sets forth this court's standard of review as follows:

(2) The 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.

{¶ 9} "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." *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus.

{¶ 10} Nothing in R.C. 2953.08(G)(2) permits this court to independently weigh the evidence in the record and substitute our own judgment for that of the trial court "concerning the sentence that best reflects compliance with R.C. 2929.11 [purposes and principles of felony sentencing] and 2929.12 [seriousness and recidivism factors]." *State v. Jones*, 2020-Ohio-6729, ¶ 42. The Supreme Court of Ohio clarified that the holding in *Jones* should not be "construed as prohibiting appellate review of a sentence when the claim is that the sentence was imposed based on impermissible considerations—i.e., considerations that fall outside those that are contained in R.C. 2929.11 and 2929.12." *State v. Bryant*, 2022-Ohio-1878, ¶ 22. "Accordingly,

when a trial court imposes a sentence based on factors or considerations that are extraneous to those that are permitted by R.C. 2929.11 and 2929.12, that sentence is contrary to law." *Id.*

{¶ 11} "A sentence is not clearly and convincingly contrary to law where the trial court 'considers the principles and purposes of R.C. 2929.11, as well as the factors listed in R.C. 2929.12, properly imposes post release control, and sentences the defendant within the permissible statutory range.'" *State v. Morris*, 2021-Ohio-2646, ¶ 90 (5th Dist.), *rev'd on other grounds*, *State v. Morris*, 2022-Ohio-4609, quoting *State v. Dinka*, 2019-Ohio-4209, ¶ 36 (12th Dist.). "Under established law, a trial court has full discretion to impose any sentence within the authorized statutory range, and the court is not required to make any findings or give its reasons for imposing maximum or more than minimum sentences." *State v. Sullens*, 2022-Ohio-2305, ¶ 15 (5th Dist.), quoting *State v. King*, 2013-Ohio-2021, ¶ 45 (2d Dist.). "There is no explicit requirement for a trial court to memorialize the specific factors it considered in its journal entry." *State v. Halasz*, 2025-Ohio-3072, ¶ 15 (8th Dist.), citing *State v. Hodges*, 2013-Ohio-5025, ¶ 13-14 (8th Dist.).

{¶ 12} During the plea colloquy, Pitts acknowledged he understood the possible sentences. February 18, 2026 T. at 5-6. After Pitts was properly notified of his Crim.R. 11 rights, he pled guilty to the two charges, one a felony of the third degree and one a felony of the fourth degree. *Id.* at 10-11. Under R.C. 2929.14(A)(3)(b), felonies of the third degree are punishable by "a definite term of nine, twelve, eighteen, twenty-four, thirty, or thirty-six months"; under R.C. 2929.14(A)(4), felonies of the fourth degree are punishable by "a definite term of six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, or eighteen months." The trial court sentenced Pitts to the maximum sentence on

each count, thirty-six months and eighteen months, respectively. March 16, 2026 T. at 10. The sentences are within the statutory ranges for felonies of the third and fourth degree.

{¶ 13} The trial court indicated it considered "the principles and purposes of sentencing under Ohio Revised Code §2929.11 and its balance of seriousness and recidivism factors under Ohio Revised Code §2929.12." Entry filed March 17, 2026.

{¶ 14} "Although a trial court must consider the factors in R.C. 2929.11 and 2929.12, there is no requirement that the court state its reasons for imposing a maximum sentence, or for imposing a particular sentence within the statutory range." *State v. Santos*, 2016-Ohio-5845, ¶ 12 (8th Dist.); *accord State v. Webb*, 2019-Ohio-4195, ¶ 17 (5th Dist.).

{¶ 15} The record reflects the trial court imposed sentences within the statutory ranges and ones that were not based on impermissible considerations.

{¶ 16} The trial court ordered the two sentences to be served consecutively. T. at 10. R.C. 2929.14(C)(4) governs consecutive sentences and states the following:

(4) 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} As held by the Supreme Court: "In order to impose consecutive terms of imprisonment, a trial court is required to make the findings mandated by R.C. 2929.14(C)(4) at the sentencing hearing and incorporate its findings into its sentencing entry, but it has no obligation to state reasons to support its findings." *State v. Bonnell*, 2014-Ohio-3177, syllabus.

{¶ 18} During the sentencing hearing, the trial court made the requisite findings for consecutive sentencing under R.C. 2929.14(C)(4), stating (T. at 10-11):

Court does find consecutive sentences are necessary to protect the public from future crime and punish this Defendant. Consecutive sentences are not disproportionate to the seriousness of your conduct and the danger posed to the public.

Your history of criminal conduct demonstrates consecutive sentences are necessary to protect the public from future crime.

{¶ 19} In the sentencing entry, the trial court noted, "consecutive sentences are necessary to protect the public from future crime or to punish the Defendant, and that consecutive sentences are not disproportionate to the seriousness of the Defendant's conduct, and to the danger the Defendant poses to the public." Entry filed March 17, 2026. The trial court further noted: "[t]he Defendant's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender." *Id.*

{¶ 20} In sentencing Pitts, the trial court noted his "terrible record" and the fact that he was still committing crimes while locked up. T. at 8, 10.

{¶ 21} The trial court made the required findings at the sentencing hearing for consecutive sentencing and incorporated its findings into its sentencing entry, meeting the requirements of R.C. 2929.14(C)(4).

{¶ 22} Pitts argues consecutive sentences "should be reserved for the worst offenses and offenders," citing *State v. Comer*, 2003-Ohio-4165, ¶ 21. Appellant's Brief at 3. He argues the evidence against him was "shaky at best" and therefore he was not one of the "worst offenders" requiring a consecutive sentence. *Id.* at 4. Pitts's defense counsel aptly made these arguments prior to sentencing. March 16, 2026 T. at 5-6. Defense counsel also acknowledged Pitts's "bad record" and "bad institutional summary report." *Id.* at 5. A trial court's analysis under R.C. 2929.14(C)(4) is not limited to only considering the offense at hand. Here, the trial court specially noted and properly considered Pitts's past criminal history, as set forth in

the PSI, and his troublesome criminal behavior while incarcerated. Further, during the plea hearing, the prosecutor recited the facts wherein witnesses stated Pitts kicked in a door, grabbed the victim by the neck with both hands, head-butted her, and took her with him. February 18, 2026 T. at 11-12. The record contained ample information for the trial court's consideration to support the imposition of consecutive sentences.

{¶ 23} We note the trial court notified Pitts of postrelease control and his right to appeal. Plea of Guilty filed February 18, 2026; Entry filed March 17, 2026; February 18, 2026 T. at 6-7, 10; March 16, 2026 T. at 11-12.

{¶ 24} Upon review of the record, we find the trial court properly considered the factors set forth in R.C. 2929.11 and R.C. 2929.12, imposed sentences within the permissible statutory ranges, made the requisite findings for consecutive sentences, and properly imposed postrelease control; there is nothing in the record to indicate the trial court imposed the sentences based on impermissible considerations. Pitts's sentence is therefore not clearly and convincingly contrary to law.

{¶ 25} The sole assignment of error is denied.

{¶ 26} For the reasons stated in our accompanying Opinion, the judgment of the Muskingum County Common Pleas Court is AFFIRMED.

{¶ 27} Costs to Appellant.

By: King, P.J.

Baldwin, J. and

Gormley, J. concur.