

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

STATE OF OHIO

Plaintiff - Appellee

-vs-

RUSSELL HARRIS

Defendant - Appellant

Case No. CT2026-0047

Opinion and Judgment Entry

Appeal from the Muskingum County Court of
Common Pleas, Case No. CR2024-0296

Judgment: Affirmed

Date of Judgment Entry: August 27, 2026

BEFORE: Andrew J. King; William B. Hoffman; David M. Gormley, Judges

APPEARANCES: Joseph A. Palmer, Esq., Muskingum County Assistant Prosecuting Attorney, for Plaintiff-Appellee; Chris Brigdon, for Defendant-Appellant.

Hoffman, J.

{¶1} Defendant-appellant Russell Harris appeals the May 1, 2026 Entry entered by the Muskingum County Court of Common Pleas. Plaintiff-appellee is the State of Ohio.

STATEMENT OF THE CASE

{¶2} On May 13, 2024, the Muskingum County Prosecutor filed a Bill of Information, charging Appellant with one count of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them, in violation of R.C. 4511.19(A)(1)(a) and (G)(1)(a), a misdemeanor of the first degree (Count One); one count of failure to comply with an order or signal of a police officer, in violation of R.C. 2921.331(B) and (C)(3), a misdemeanor of the first degree (Count Two); and one count of obstructing official business,

in violation of R.C. 2921.31(A) and (B), a felony of the fifth degree (Count Three). On the same day, Appellant waived prosecution by Indictment and entered a plea of guilty to the Bill of Information. The trial court conducted a Crim.R. 11 colloquy with Appellant and found him guilty as charged. The trial court ordered a pre-sentence investigation and released Appellant on his own recognizance.

{¶3} Appellant appeared before the trial court for sentencing on July 8, 2024. The trial court placed Appellant on community control for a period of three years. In addition, on Count One, the trial court ordered Appellant to serve a mandatory five days of local incarceration, imposed a mandatory fine of \$525.00, and ordered a one-year suspension of his driver's license. The trial court reserved the right to impose a sentence within the statutory range for a felony of the fifth degree should Appellant violate the terms and conditions of his community control.

{¶4} On or about March 17, 2025, Appellant was arrested for violating the terms of his community control after admitting to using opiates and cocaine. Appellant appeared at the community control violation hearing on April 7, 2025, and advised the trial court he intended to waive his right to a two-part hearing and enter a plea of guilty to the violations. Jason Haser, a probation officer with Muskingum County Adult Probation, detailed the community control sanctions Appellant had violated. Specifically, Appellant admitted using cocaine on or about March 15, 2025, and several other times since December 2024. In addition, Appellant admitted he used alcohol multiple times since the removal of his Secure Continuous Remote Alcohol ("SCRAM") monitor in October, 2024.

{¶5} The trial court accepted Appellant's plea and proceeded with sentencing. The trial court ordered Appellant remain on community control for a period of two years. In

addition, Appellant was ordered to participate in and successfully complete the residential program at The Landing and all post-program requirements; be subject to and obey all rules and regulations of the facility as well as orders of the staff; and be financially responsible for clothing and health related expenses. After successful completion of The Landing program, Appellant was required to wear a SCRAM monitor for up to 180 days at the discretion of the probation department. On the record, the trial court advised Appellant if he failed to follow the rules and regulations of his community control, he could be brought back before the court and the court “could impose more severe sanctions of community control or send you to prison for any period of time I could have originally.” Transcript of April 7, 2025 Community Control Violation Hearing at p.14. The trial court added, “[r]eserved for sentencing on Count 3 is 12 months in prison.” *Id.*

{¶6} Appellant again violated the terms of his community control, and the trial court issued a bench warrant on December 19, 2025. Appellant was arrested on April 22, 2026. The trial court conducted a hearing on the community control violations on April 30, 2026, at which time Appellant waived his right to a two-part hearing and entered a plea of guilty to the violations. Probation officer Jason Haser detailed the community control sanctions Appellant had violated, to wit: failing to report as ordered between December 18, 2025, and April 22, 2026; using illegal substances and testing positive for oxycodone on December 8, 2025; and failing to abstain from the use of alcohol and admitting to consuming alcohol multiple times between December 13, 2025, and April 22, 2026. Haser recommended Appellant’s community control be revoked.

{¶7} After accepting Appellant’s plea, the trial court proceeded with sentencing. The trial court found Appellant was no longer amenable to community control and revoked

the same. On Count One, the trial court sentenced Appellant to a period of local incarceration of 180 days; on Count Two, a period of local incarceration of 180 days; and on Count Three, a prison term of 12 months. The court ordered the sentences be served concurrently for an aggregate prison term of 12 months. The trial court memorialized Appellant's convictions and sentence via Entry filed May 1, 2026.

{¶8} It is from that entry Appellant appeals, raising as his sole assignment of error:

THE MINIMUM SANCTIONS TO ACHIEVE THE PURPOSE OF
R.C. §2929.11 WERE NOT REFLECTED IN THE SENTENCE
APPELLANT RECEIVED.

{¶9} In his sole assignment of error, Appellant maintains the sentence imposed by the trial court did not reflect the minimum sanctions necessary to achieve the principles and purposes of sentencing under R.C. 2929.11. Appellant submits, although the trial court properly considered his "criminal history as an aggravating factor under R.C. 2929.12," the court "failed to give appropriate weight to the substantial mitigating factors present." Brief of Appellant at p. 5. Appellant concludes the trial court's April 7, 2025 reservation of the "absolute maximum prison term while simultaneously finding that continued community control with residential treatment was appropriate [was] inconsistent with [the] statutory mandates" of R.C. 2929.11 and R.C. 2929.12. *Id.* at p 6.

{¶10} "The right to continue on community control depends on a defendant's compliance with community control conditions and is a matter that rests within the sound discretion of the trial court." (Citations omitted.) *State v. Schreiber*, 2019-Ohio-2963, ¶ 18 (12th

Dist.). “We review a trial court's decision to revoke a community-control sanction for an abuse of discretion.” *State v. Dyer*, 2026-Ohio-2387, ¶ 11 (6th Dist.), citing *State v. Calhoun*, 2019-Ohio-228, ¶ 17 (6th Dist.). An abuse of discretion connotes the trial court's attitude is unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

{¶11} Under R.C. 2929.15(B)(1) and (3), if an offender violates the conditions of a community-control sanction, the court may impose “a longer period of community control, a more restrictive community-control sanction, *or a prison term of any length within the range of that available for the original offense up to the maximum term the trial court specified at the first sentencing hearing.*” (Internal quotations omitted.) (Emphasis added.) *Calhoun* at ¶ 18, citing *State v. Jackson*, 2016-Ohio-8127, ¶ 13, citing R.C. 2929.15(B) then in effect. Generally speaking, a trial court holds a “great deal of discretion” to fashion a sentence after finding an offender has violated the conditions of community control. *Id.*

{¶12} When a defendant is sentenced to prison following a community control violation, a “trial court is not required to give findings or reasons for the prison term imposed within the statutory range.” *Calhoun*, ¶ 21, citing *State v. Mincer*, 2018-Ohio-5199, ¶ 15 (6th Dist.). The trial court is required, however, to notify the defendant at the time of his original sentencing a prison term of the length which was ultimately imposed was an option following a future community control violation. *Id.* at ¶ 21, citing *State v. Brooks*, 2004-Ohio-4746, paragraph two of the syllabus, and R.C. 2929.15(B). Here, a twelve-month prison term is undisputedly within the statutory range for a fifth-degree felony. See R.C. 2929.14(A)(5). In addition, the trial court properly notified Appellant -- both at his original sentencing hearing and at his first community control violation hearing -- should he violate the terms of his

community control, “[r]eserved for sentencing on Count 3 is 12 months in prison.” Tr. April 7, 2025 Community Control Violation Hearing at p.14.

{¶13} Appellant’s first violation of his community control occurred on or about March 15, 2025, approximately 8 months after he was originally sentenced. The trial court ordered Appellant remain on community control for a period of two years. In December, 2025, 8 months after the first hearing, Appellant again violated the terms of his community control. The trial court issued a bench warrant on December 19, 2025, and Appellant was arrested on April 22, 2026.

{¶14} At Appellant’s original sentencing hearing and the hearing on his first community control violations, the trial court imposed “the minimum sanctions” to accomplish “the overriding purposes of felony sentencing * * * to protect the public from future crime by the offender and others, to punish the offender, and to promote the effective rehabilitation of the offender.” R.C. 2929.11(A). However, Appellant did not respond favorably to those sanctions. The trial court, in its discretion, subsequently imposed prison time after Appellant violated his community control a second time and then absconded. The trial court was not obligated to give Appellant unlimited opportunities to demonstrate he was amenable to community control—allowing him two chances was generous.

{¶15} Accordingly, we find the trial court did not abuse its discretion when it revoked Appellant’s community control and imposed the reserved sentence of 12 months.

{¶16} The judgment of the Muskingum County Court of Common Pleas is affirmed.

{¶17} Costs to Appellant.

By: Hoffman, J.

King, P.J. and

Gormley, J. concur.