

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

STATE OF OHIO

Plaintiff - Appellee

-vs-

CRYSTAL L. KINDRED

Defendant - Appellant

Case No. 2026 CA 00008

Opinion And Judgment Entry

Appeal from the Court of Common Pleas,  
Case No. 2025 CR 00570

Judgment: Sentence Vacated & Remanded

Date of Judgment Entry: September 1, 2026

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

**APPEARANCES:** JENNY WELLS, KENNETH W. OSWALT, for Plaintiff-Appellee;  
BRIAN A. SMITH, for Defendant-Appellant.

*King, P.J.*

{¶ 1} Defendant-Appellant, Crystal L. Kindred, appeals her January 20, 2026 sentence from the Licking County Common Pleas Court. Plaintiff-Appellee is State of Ohio. We vacate the sentence of the trial court and remand for resentencing.

**FACTS AND PROCEDURAL HISTORY**

{¶ 2} On September 25, 2025, the Licking County Grand Jury indicted Kindred on five counts of receiving stolen property in violation of R.C. 2913.51, one count of safecracking in violation of R.C. 2911.31, one count of possessing criminal tools in violation of R.C. 2923.24, two counts of burglary in violation of R.C. 2911.12, and one count of tampering with evidence in violation of R.C. 2921.12. The indictment included a firearm specification and two forfeiture specifications (vehicle and cellphone).

{¶ 3} On January 20, 2026, Kindred pled guilty as charged except for the firearm specification which was dismissed. By judgment entry filed on the same date, the trial court sentenced Kindred to one year, nine months, 180 days, one year, and one year on the respective receiving stolen property counts, one year on the safecracking count, nine months on the possessing criminal tools count, two years on each of the two burglary counts, and two years on the tampering count; the nine month sentence on a receiving count and the sentences on the burglary counts were ordered to be served consecutively, but concurrently to the remaining sentences for an aggregate term of four years and nine months in prison. The trial court ordered the forfeiture of the vehicle and the cellphone.

{¶ 4} Kindred filed an appeal with the following assignments of error:

I

{¶ 5} "THE TRIAL COURT'S IMPOSITION OF CONSECUTIVE SENTENCES WAS CONTRARY TO LAW AND CONSTITUTED PLAIN ERROR, BECAUSE THE TRIAL COURT DID NOT MAKE THE REQUIRED FINDINGS AT APPELLANT'S SENTENCING HEARING IN ORDER TO IMPOSE CONSECUTIVE SENTENCES PURSUANT TO R.C. 2929.14(C)(4)."

II

{¶ 6} "THE TRIAL COURT COMMITTED PLAIN ERROR IN IMPOSING CONSECUTIVE SENTENCES ON APPELLANT, BECAUSE ITS FINDINGS UNDER R.C. 2929.14(C)(4) WERE NOT SUPPORTED BY THE RECORD."

I, II

{¶ 7} In her assignments of error, Kindred challenges the sentence imposed by the trial court. 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.

{¶ 8} "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.

{¶ 9} 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.*

{¶ 10} "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*, 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.).

{¶ 11} We note Kindred did not object during the sentencing hearing to the imposition of consecutive sentences, thereby forfeiting all but plain error. *State v. Wilson*, 2013-Ohio-1520, ¶ 8 (10th Dist.). An error not raised in the trial court must be plain error for an appellate court to reverse. *State v. Long*, 53 Ohio St.2d 91 (1978), paragraph one of the syllabus; Crim.R. 52(B). In order to prevail under a plain error analysis, appellant bears the burden of demonstrating that the outcome of the proceeding clearly would have been different but for the error. *Long* at paragraph two of the syllabus. Notice of plain error "is to be taken with the utmost caution, under exceptional circumstances and only to prevent a manifest miscarriage of justice." *Id.* at paragraph three of the syllabus.

{¶ 12} We will address Kindred's arguments within this framework.

{¶ 13} Kindred argues the trial court erred in imposing consecutive sentences because it failed to make the requisite findings under R.C. 2929.14(C)(4) and its findings were not supported in the record. We agree in part.

{¶ 14} 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.

{¶ 15} 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.

{¶ 16} During the sentencing hearing, the trial court made the following findings for consecutive sentencing under R.C. 2929.14(C)(4): "I would find that consecutive sentences are necessary to protect the public, to punish you, they are not disproportionate to the seriousness of your conduct or the danger that you pose to the public. And, further, I would find that a single sentence would not be sufficient to reflect the seriousness of the conduct." T. at 25-26.

{¶ 17} In the January 20, 2026 judgment entry on sentencing, the trial court stated:

The Court has decided that the offender shall serve the prison terms consecutively, pursuant to R.C. 2929.14(C)(4), because the Court finds that the consecutive sentences are 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 the Court also finds the following:

The harm caused was so great or unusual that no single prison term for any of the offenses committed adequately reflects the seriousness of the offender's conduct.

{¶ 18} Kindred argues the trial court properly "made the required findings in its sentencing entry," but failed to make a finding under R.C. 2929.14(C)(4)(a), (b), or (c) during the sentencing hearing. Appellant's Brief at 8.

{¶ 19} The State argues the trial court, in stating during the sentencing hearing, "I would find that a single sentence would not be sufficient to reflect the seriousness of the conduct," did indeed make a finding under R.C. 2929.14(C)(4)(b), cited above.

{¶ 20} We disagree with Kindred that the trial court properly made the required findings in its sentencing entry; we find the trial court failed to make the requisite findings in its sentencing entry and during the sentencing hearing. The trial court did not make any finding relative to multiple offenses. The statute is clearly written in the conjunctive "and" which requires a trial court to make both findings: 1) "[a]t least two of the multiple offenses

were committed as part of one or more courses of conduct"; AND 2) "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." We find the trial court failed to make a proper finding under R.C. 2929.14(C)(4) during the sentencing hearing and in its judgment entry to impose consecutive sentences. *See State v. Cousino*, 2018-Ohio-2589, ¶ 13 (6th Dist.) ("Under (b), the court must find, first, that at least two of the multiple offenses were committed as part of one or more courses of conduct, and, second, that the harm caused was so great or unusual that no single prison term adequately reflects the seriousness of the offender's conduct").

{¶ 21} Upon review, we find plain error, vacate the sentence, and remand the matter to the trial court for resentencing.

{¶ 22} Assignment of Error I is granted; Assignment of Error II is premature.

{¶ 23} For the reasons stated in our accompanying Opinion, the sentence of the Licking County Common Pleas Court is VACATED and the matter is REMANDED for resentencing.

{¶ 24} Costs to Appellee.

By: King, P.J.

Hoffman, J. concur and

Gormley, J. concurs separately.

*Gormley, J., concurring in the judgment*

{¶ 25} Had defendant Kindred objected on the record to the sentence after the trial judge had announced it, and had the trial judge then declined to remedy the truncated consecutive-sentence findings that our court in today’s opinion describes, I would, with little difficulty, embrace the court’s opinion.

{¶ 26} After all, the trial judge omitted from his announcement of the sentence in the courtroom any statement indicating that the consecutive-sentence crimes had been — in the words of R.C. 2929.14(C)(4)(b) — “committed as part of one or more courses of conduct,” and the judge likewise failed to intone that same statutory provision’s language about the “harm caused by two or more of the multiple offenses” having been “so great or unusual” that the announced consecutive prison terms were needed. Then, in the sentencing entry, the judge remedied the latter of those two omissions but still said nothing about the consecutive-sentence offenses having been committed as part of a course of conduct.

{¶ 27} Words matter, and where the General Assembly has told us that certain findings must be made before consecutive prison terms can be imposed in a felony case, then, assuming the record supports them and assuming the trial judge believes that consecutive

prison terms are needed, those findings should be made and should be stated aloud (and also, of course, should then be included in the resulting sentencing entry). Where the trial judge — whether in any oral pronouncement of a sentence or in the sentencing entry that follows — does not adhere to the law, then, if the issue has been preserved by a timely objection in the trial court before any appeal here, we can readily and rightly find, by the requisite clear-and-convincing standard in R.C. 2953.08(G)(2), that such a sentence is, in the words of R.C. 2953.08(G)(2)(b), “contrary to law,” and we should typically reach such a finding.

{¶ 28} But where neither party voices any objection to an announced sentence in the moments after it has been announced (and after they have been given a chance by the trial judge to object to that just-announced sentence), we are left, as today’s opinion rightly notes, with the task of reviewing that sentence solely for any plain error in it. And as the Supreme Court reiterated just weeks ago, a reviewing court ought not upend a trial-court outcome based on alleged plain error unless that error “affect[ed] substantial rights.” *State v. Khalif*, 2026-Ohio-2689, ¶ 25 (quotations omitted). *See also State v. Rodriguez*, 2026-Ohio-2573, ¶ 31 (explaining that an error that affects substantial rights is one that results in a “manifest miscarriage of justice”) (quotations omitted).

{¶ 29} Those words matter to me, just as do the words of a statute like the consecutive-sentencing provision in R.C. 2929.14(C)(4). I have a hard time understanding what manifest injustice has been wrought by, in this case, the trial judge’s failure to recite a few words from that provision. If the trial judge’s misstep did indeed affect Kindred’s substantial rights, why did neither party voice a word of protest at the sentencing hearing ?

{¶ 30} In the end, what prompts me to concur in today’s judgment is the fact that the sentencing entry, too, fell short. Certainly, with that one, a timely objection from the parties

was not a possibility, and of course this appeal was the only way to bring any errors in it to the attention of a court that could bring about a remedy. In that way, this case presents a different scenario than did another recent case of ours. In that one — *State v. Wade*, 2024-Ohio-4556 (5th Dist.) — the trial court had “made the appropriate [consecutive-sentencing] findings in its sentencing judgment entry,” and so our plain-error review of that trial judge’s oral sentence pronouncement led us to affirm the imposition of consecutive sentences, even though the trial judge (as in today’s case) had failed to say aloud that the consecutive-sentence offenses had been committed as part of a course of conduct. *Id.* at ¶ 62-64.

{¶ 31} There is no shame in keeping a copy of Ohio’s consecutive-sentencing provision — R.C. 2929.14(C)(4) — ready at hand on a trial judge’s bench in the courtroom. That is in fact what I did during my 10 years as a general-division trial judge. Whenever I concluded that consecutive sentences were warranted in a felony case, I simply reached over for my printed copy of the statute and read word-for-word from it the relevant parts of the statute that I believed applied in that case. Everyone in the room could tell that I was reading at that point rather than speaking off the cuff, but I knew, and the parties knew, that I was accurately stating the law on a critical issue, and no one ever raised in an appeal the kind of arguments that we have had to address in today’s case.

{¶ 32} Words matter, and I think it is always better for a trial judge to make sure that he or she is choosing the right words (even if that means reading them from a printed page) rather than running the risk of muffing the job while trying to make the parties think that the judge has brilliantly committed the Revised Code to memory.

{¶ 33} For these reasons, I concur in today’s judgment.