

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

STATE OF OHIO

Plaintiff - Appellee

-vs-

AARON PARKER

Defendant - Appellant

Case No. 26CA000009

Opinion And Judgment Entry

Appeal from the Guernsey County Court of
Common Pleas, Case No. 24CR 184

Judgment: Affirmed

Date of Judgment Entry:
September 10, 2026

BEFORE: William B. Hoffman, Robert G. Montgomery, and Kevin W. Popham, Judges

APPEARANCES: Mark A. Perlaky for Plaintiff-Appellee; Christopher Bazeley, for
Defendant-Appellant

OPINION

Popham, J.,

{¶1} Appellant Aaron J. Parker (“Parker”) appeals his conviction and sentence after a negotiated guilty plea in the Court of Common Pleas for Guernsey County, Ohio. For the reasons explained below, we affirm.

Facts and Procedural History

{¶2} On November 1, 2024, Parker was convicted of disorderly conduct, a fourth-degree misdemeanor, and was placed on probation for twelve months. (Sent. Tr. at 14, 43).

{¶3} On August 31, 2025, deputies with the Guernsey County Sheriff’s Office responded to Parker’s residence after receiving a report that he had violated a protection order.

(Plea Tr. at 25). Upon the deputies' arrival, Parker became argumentative, combative, and aggressive, directing vulgar language toward them. (Plea Tr. at 25-26; Sent. Tr. at 9). Parker then removed his pants. (*Id.*).

{¶4} Parker retreated into his residence before returning to the front porch carrying a five-gallon bucket containing vomit. He then threw or slammed the bucket onto the porch, causing its contents to splash onto the deputies. (Plea Tr. at 26; Sent. Tr. at 9-10). The deputies deployed a Taser, placed Parker under arrest, and attempted to transport him to the Guernsey County Jail. (Plea Tr. at 26; Sent. Tr. at 10).

{¶5} During transport, Parker continued to resist by placing his legs against the cruiser door to prevent it from closing. (Sent. Tr. at 10). He also repeatedly struck his head against the glass partition inside the cruiser, requiring the deputies to stop and place a protective helmet on him to prevent further self-inflicted injury. (*Id.*). Parker again attempted to prevent the cruiser door from closing by bracing his legs against it. (*Id.*).

{¶6} On September 23, 2025, Parker was indicted on two counts of Harassment with a Bodily Substance in violation of R.C. 2921.38, felonies of the fifth degree.

{¶7} On December 15, 2025, Parker executed a written Crim.R. 11 plea form setting forth the charge, the constitutional rights he was waving, the maximum penalties, and the terms of the negotiated plea. The trial court conducted a plea hearing that same day, accepted Parker's guilty pleas, and ordered a presentence investigation report.

{¶8} On January 30, 2026, Parker appeared with counsel for sentencing. Through counsel, Parker argued that the trial court was required to impose community control pursuant to R.C. 2929.13(B)(1). After reviewing the presentence investigation report and considering the parties' arguments, the trial court determined that R.C. 2929.13(B)(1) did not

require the imposition of community control. (Sent. Tr. at 40). The court sentenced Parker to nine months on each count and ordered the sentences to be served consecutively, for an aggregate prison term of eighteen months.

Assignment of Error

{¶9} Parker raises one assignment of error for our consideration,

{¶10} “I. THE TRIAL COURT ERRED WHEN IT MISINTERPRETED THE TERM ‘COMMITTED’ IN R.C. 2929.13(B)(1)(a)(iii) AND DENIED PARKER’S MOTION TO IMPOSE MANDATORY COMMUNITY CONTROL.”

Standard of Review

{¶11} In reviewing a felony sentence, we examine the entire record, including any oral or written statements, the presentence investigation report, and the trial court's sentencing findings. R.C. 2953.08(F); *State v. Jones*, 2020-Ohio-6729, ¶ 36; *State v. Howell*, 2015-Ohio-4049, ¶ 31 (5th Dist.).

{¶12} Pursuant to R.C. 2953.08(G)(2), an appellate court may modify or vacate a felony sentence only if it clearly and convincingly finds either that (1) the record does not support the sentencing court's findings under the applicable statutes, or (2) the sentence is otherwise contrary to law. *State v. Bonnell*, 2014-Ohio-3177, ¶ 28.

{¶13} A sentence is not clearly and convincingly contrary to law when the trial court considers the purposes and principles of felony sentencing set forth in R.C. 2929.11, considers the seriousness and recidivism factors in R.C. 2929.12, properly imposes post-release control, and imposes a sentence within the applicable statutory range. *State v. Pettorini*, 2021-Ohio-1512, ¶¶ 14-16 (5th Dist.), quoting *State v. Dinka*, 2019-Ohio-4209, ¶ 36 (12th Dist.).

{¶14} An appellate court may not modify a sentence merely because it disagrees with the trial court's weighing of the factors under R.C. 2929.11 and R.C. 2929.12. *Jones* at ¶ 39. However, where a sentence is based upon considerations outside the statutory sentencing framework, it is contrary to law and remains subject to appellate review. *State v. Bryant*, 2022-Ohio-1878, ¶ 22; *State v. Hargraves*, 2026-Ohio-2378, ¶ 19 (5th Dist.).

Presumption of Community-Control Sanctions

{¶15} R.C. 2929.13(B)(1)(a) generally requires community-control sanctions for certain offenders convicted of nonviolent fourth- and fifth-degree felonies. The presumption applies only if the offender satisfies each of the statutory conditions set forth in R.C. 2929.13(B)(1)(a)(i) through (iii).

{¶16} Parker argues that because he satisfied those statutory requirements, the trial court was required to impose community-control sanctions. We disagree.

{¶17} Relevant here, the presumption of community control does not apply if the offender committed the offense "while under a community control sanction, while on probation, or while released from custody on a bond or personal recognizance." R.C. 2929.13(B)(1)(b)(x). When that circumstance exists, the trial court has discretion to impose a prison term. *State v. Lanier*, 2026-Ohio-762, ¶ 12 (6th Dist.).

{¶18} The record establishes that Parker was placed on twelve months of probation following his November 1, 2024, conviction for fourth-degree misdemeanor disorderly conduct. (Sent. Tr. at 14, 43). The present offenses occurred on August 31, 2025, while Parker remained on probation. During the sentencing hearing, the trial court specifically noted that Parker was on probation at the time he committed the present offenses, and Parker neither objected to nor disputed that fact. (Sent. Tr. at 43).

{¶19} Accordingly, the exception contained in R.C. 2929.13(B)(1)(b)(x) applied, giving the trial court discretion to impose a prison term rather than community-control sanctions. Parker raises no other challenge to the sentence imposed.

{¶20} Moreover, based on our review of the plain language of R.C. 2929.13(B)(1)(a), we agree with the other Ohio District Courts of Appeal that have held that the community control presumption contained in R.C. 2929.13(B)(1)(a) applies only where the defendant pleads guilty to a singular nonviolent felony of the fourth or fifth degree. *See, State v. Bentley*, 2017-Ohio-8943, ¶19 (11th Dist.); *State v. Goss*, 2024-Ohio-2648, ¶9 (2d Dist.); *State v. Boswell*, 2019-Ohio-2849, ¶22 (6th Dist.); *State v. Durant*, 2016-Ohio-8173, ¶9 (7th Dist.). Accordingly, because Parker pled guilty to multiple fifth degree felonies, he was not entitled to the presumption of community control under R.C. 2929.13(B)(1)(a).

Conclusion

{¶21} The record demonstrates that Parker committed the present offenses while serving a term of probation for a prior misdemeanor conviction. Because R.C. 2929.13(B)(1)(b)(x) expressly provides, under those circumstances, the trial court has discretion to impose a prison term, Parker was not entitled to mandatory community-control sanctions under R.C. 2929.13(B)(1)(a). In addition, because Parker pled guilty to multiple fifth degree felonies, he was not entitled to the presumption of community control under R.C. 2929.13(B)(1)(a).

{¶22} The prison sentence imposed by the trial court was therefore authorized by law.

{¶23} Parker's sole assignment of error is overruled.

{¶24} For the reasons stated in our Opinion, the judgment of the Guernsey County Court of Common Pleas is affirmed. Costs are to be paid by Appellant, Aaron J. Parker.

By: Popham, J.

Hoffman, P.J. and

Montgomery, J., concur