

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

STATE OF OHIO,

Plaintiff - Appellee

-vs-

ANGIE MCINTIRE,

Defendant - Appellant

Case No. 26-COA-002
26-COA-003

Opinion And Judgment Entry

Appeal from the Ashland County Court of
Common Pleas, Case Nos. 25-CRI-136 and 25-
CRI-164

Judgment: Affirmed

Date of Judgment Entry: October 6, 2026

BEFORE: Craig R. Baldwin; Kevin W. Popham; David M. Gormley, Judges

APPEARANCES: CHRISTOPHER R. TUNNELL, Prosecuting Attorney, JAMES B. REESE III, Assistant Prosecuting Attorney, for Plaintiff-Appellee; BRIAN A. SMITH, for Defendant-Appellant.

Baldwin, P.J.

{¶1} Appellant Angie McIntire appeals from the trial court's imposition of court costs as part of its sentence following her pleas of guilty to various drug-related charges. Appellee is the State of Ohio.

STATEMENT OF FACTS AND THE CASE

{¶2} On September 12, 2025, the appellant was indicted in case number 25-CRI-136 on the following charges: Count One, Aggravated Possession of Drugs in violation of R.C. 2925.11(A) and (C)(1)(b), a felony of the third degree; Count Two, Driving Under OVI Suspension in violation of R.C. 4510.14(A) and (B)(1), a misdemeanor of the first degree;

Count Three, Driving Under Suspension or in Violation of License Restriction in violation of R.C. 4510.11(A) and (D)(1), a misdemeanor of the first degree; and, Count Four, Possessing Criminal Tools in violation of R.C. 2923.24(A) and (C), a felony of the fifth degree. In addition, Count Four contained a Forfeiture Specification for a Samsung Cell Phone “which was contraband and/or property derived from or through the commission or facilitation of the offense.” The appellant pleaded not guilty to all charges at her September 19, 2025, arraignment.

{¶3} On October 9, 2025, the appellant was indicted in case number 25-CRI-164 on one count of Aggravated Possession of Drugs in violation of R.C. 2925.11(A) and (C)(1)(a), a felony of the fifth degree. The appellant pleaded not guilty to the charge at her October 16, 2025, arraignment.

{¶4} On December 1, 2025, the trial court conducted a change of plea hearing. The court engaged in the requisite Crim.R. 11(C) colloquy, during which the following exchange took place:

THE COURT: Do you have any questions about this [Waiver of Rights and Plea of Guilty] document?

MS. MCINTIRE: Just that when my attorney and I talked about the status on being on legal in the prison, legal status money-wise and that says a mandatory fine of \$5000 and we only talked about the fines being waived, and only court costs that I would have to endure.

The only other reference to court costs occurred during the trial court’s discussion with the appellant regarding potential penalties:

THE COURT: ... Between the two cases, the maximum period of incarceration that you are looking at is 60 months in prison, and the Court could also order forfeiture which there is a forfeiture specification of Count 4 of the first case of forfeiture of the property that was referenced in the Indictment, and I could order restitution if any, and court costs.

Do you have any questions about any of those potential penalties?

MS. MCINTIRE: No, Your Honor.

The appellant pleaded guilty to Counts One, Two, and Four of the indictment in case number 25-CRI-136, and guilty to the sole count of the indictment in case number 25-CRI-164.

{¶5} The trial court proceeded to sentencing immediately following the appellant's guilty pleas. The court sentenced the appellant in case number 25-CRI-136, in accordance with the parties' agreement, as follows: eighteen months in prison on Count One; ninety days in jail on Count Two; and, six months in prison on Count Four, to be served concurrently. In addition, the trial court sentenced the appellant in case number 25-CRI-164, in accordance with the parties' agreement, to six months in prison on Count One, with said sentence to be served consecutively to the appellant's sentence in case number 25-CRI-136. In addition, the trial court waived mandatory fines, and ordered that the appellant pay court costs. The appellant made no objection to the imposition of court costs at the time of sentencing.

{¶6} The appellant filed a timely appeal, and sets forth the following sole assignment of error:

{¶7} **"I. THE TRIAL COURT'S SENTENCE, WITH REGARD TO THE IMPOSITION OF COURT COSTS, WAS BOTH CONTRARY TO LAW AND AN ABUSE OF DISCRETION, WHERE THE RECORD DEMONSTRATED THAT**

APPELLANT WAS INDIGENT AND DID NOT HAVE THE ABILITY TO PAY COURT COSTS; WHERE THE TRIAL COURT WAIVED THE MANDATORY FINE DUE TO APPELLANT'S INDIGENCY; AND WHERE THE TRIAL COURT SENTENCED APPELLANT TO A TERM OF INCARCERATION."

For the foregoing reasons, we find the appellant's assignment of error to be without merit and affirm the decision of the trial court.

ANALYSIS

{¶8} This Court addressed nearly identical facts to those herein in the recent case of *State v. Rouse*, 2026-Ohio-2798 (5th Dist.):

We ordinarily employ an abuse-of-discretion standard when we are asked to review a trial court's decision to impose court costs on a criminal defendant. *State v. Pettry*, 2014-Ohio-3099, ¶ 31 (5th Dist.).

Yet because Rouse did not challenge in the trial court the imposition of costs on him, we review the trial court's order solely for plain error. *State v. Johnson*, 2020-Ohio-4997, ¶ 14 (8th Dist.). And "an alleged error is plain error only if the error is 'obvious,' and 'but for the error, the outcome . . . clearly would have been otherwise.'" *State v. Hinkle*, 2026-Ohio-175, ¶ 14 (5th Dist.) quoting *State v. Long*, 53 Ohio St.2d 91, 372 N.E.2d 804 (1978), paragraph two of the syllabus.

R.C. 2947.23(A)(1)(a) directs that in every criminal case the court "shall include in the sentence the costs of prosecution" and must "render a judgment against the defendant for such costs." That command " 'requires a court to impose costs against all convicted defendants,' " whether indigent or not. *State*

v. Taylor, 161 Ohio St. 3d 319, 2020-Ohio-3514, ¶ 6, 163 N.E.3d 486, quoting *State v. White*, 103 Ohio St. 3d 580, 2004-Ohio-5989, ¶ 8, 817 N.E.2d 393. Ohio law has long permitted a trial court to assess those costs against an indigent defendant at the time a sentence is imposed. *See State v. Durenda*, 2004-Ohio-1292, ¶ 18 (5th Dist.) ("Ohio law does not prohibit a judge from including court costs as part of the sentence of an indigent defendant"); *State v. Dobbins*, 2004-Ohio-4715, ¶ 12 (5th Dist.) (affirming the imposition of court costs on an indigent defendant who had been sentenced to prison).

To be sure, a trial court does, under R.C. 2947.23(C), have discretion to "waive, suspend, or modify" those costs. But that discretion imposes no obligation on the trial court to weigh the defendant's ability to pay. As the Supreme Court held in *Taylor*, "a trial court is not required to consider the defendant's ability to pay" under R.C. 2947.23(C), "though it is permitted to do so." *Taylor* at ¶ 16.

Measured against that standard, none of the arguments that Rouse raises here persuade us that the trial court, by imposing costs, acted beyond the scope of that court's discretion, let alone that any plain error has occurred. The trial court was free to impose costs without considering Rouse's ability to pay. His recent incarceration and thin work history do not alter our view. And the fact that the trial court sentenced him to prison does not do so either. *See State v. Donaldson*, 2020-Ohio-3591, ¶ 10 (8th Dist.) (rejecting the argument that a trial court erred by imposing court costs on an indigent defendant who must also serve a prison term). The trial court reviewed the case

history and the presentence report and then imposed the very costs that Ohio law requires. That decision was not an obvious error.

We note that Rouse still has a path to seek some relief. A sentencing court, in the words of R.C. 2947.23(C), "retains jurisdiction" to waive, suspend, or modify a criminal defendant's court-cost obligation, and that is true not only at the time of sentencing but also "at any time" afterwards. *See State v. Braden*, 158 Ohio St. 3d 462, 2019-Ohio-4204, ¶ 23, 145 N.E.3d 235 (explaining that a trial court retains jurisdiction to act after sentencing even where the defendant did not ask at sentencing that court costs be suspended then). Rouse was not required to challenge the costs in this direct appeal in order to seek relief from the trial court later. He may return to the trial court at any time and ask that court to waive, suspend, or modify the costs that he has been ordered to pay.

Id. at ¶¶ 5-10.

{¶9} Because the appellant did not object to the imposition of court costs during sentencing, we review the trial court's imposition of court costs for plain error. Just as in *Rouse*, the appellant herein sets forth no arguments which persuade us that the trial court acted beyond the scope of its discretion when it imposed court costs, let alone that it committed plain error; the trial court herein was free to impose costs without considering the appellant's ability to pay. The appellant's sole assignment of error is without merit, and it is therefore overruled.

CONCLUSION

{¶10} Based upon the foregoing, the appellant's sole assignment of error is overruled, and the decision of the Ashland County Court of Common Pleas is hereby affirmed.

{¶11} Costs to appellant.

By: Baldwin, P.J.

Popham, J. and

Gormley, J. concur.