

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
HURON COUNTY

State of Ohio

Court of Appeals No. H-26-007

Appellee

Trial Court No. CRI20250174

v.

Dante A. Martin

DECISION AND JUDGMENT

Appellant

Decided: September 25, 2026

* * * * *

James Joel Sitterly, Prosecuting Attorney, and
Barry R. Murner, Assistant Prosecuting Attorney, for appellee.

Anthony J. Richardson II, for appellant.

* * * * *

MAYLE, J.

{¶ 1} Appellant, Dante Martin, appeals the March 25, 2026 judgment of the Huron County Court of Common Pleas sentencing him to 54 months in prison. For the following reasons, we affirm in part and reverse in part.

I. Background and Facts

{¶ 2} Martin was indicted on one count each of trafficking in cocaine in violation of R.C. 2925.03(A)(2), a first-degree felony (count 1); possession of cocaine in violation of R.C. 2925.11(A), a first-degree felony (count 2); having weapons while under disability in violation of R.C. 2923.13(A)(3), a third-degree felony (count 3); improperly handling firearms in a motor vehicle in violation of R.C. 2923.16(B), a fourth-degree felony (count 4); improperly handling firearms in a motor vehicle in violation of R.C. 2923.16(D)(1), a fifth-degree felony (count 5); operating a vehicle under the influence of alcohol in violation of R.C. 4511.19(A)(1)(a), a first-degree misdemeanor (count 6); failure to submit to chemical tests in violation of R.C. 4511.192(A), an unclassified misdemeanor (count 7); and driving under suspension in violation of R.C. 4510.11(A), a first-degree misdemeanor (count 8). Counts 1 through 5 included forfeiture specifications for property found with Martin at the time of his arrest and counts 1 and 2 included a firearm specification.

{¶ 3} Martin and the State reached an agreement under which Martin would plead guilty to amended count 2, a third-degree felony, without a firearm specification, count 3, and count 6. In exchange, the State would dismiss the remaining counts. The parties agreed on a 4.5-year (i.e., 54-month) prison sentence, with the State not opposing judicial release after three years. The written plea agreement that Martin signed does not include the agreed prison sentence.

{¶ 4} At the plea hearing, the trial court began by reciting its understanding of the parties' plea agreement:

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The Court's understanding of the plea agreement is the defendant would be pleading to Amended Count 2, possession of cocaine, a felony of the third degree; that does have a forfeiture specification for a pistol, a digital scale, Mercedes vehicle, \$108.06 in cash, along with an iPhone, and also would be pleading guilty to Count 3, having weapons while under disability, a felony of the third degree, that has a forfeiture specification for the weapon as well; also, Count 6, an OVI, misdemeanor of the first degree.

The State would dismiss the remaining charges, and the parties would agree to a four-year six-month prison sentence recommendation, but would ask the Court to conduct a presentence investigation, and come back here for sentencing

The State noted that it also agreed not to contest judicial release after three years. When the court asked, "Is that your understanding, Mr. Martin[.]" Martin replied, "Yes, sir."

{¶ 5} The court began its Crim.R. 11 plea colloquy with Martin. During that discussion, the court explained that "here the parties have agreed, and the Court is going to go along with that recommendation assuming that everything remains equal between now and your returning for the sentencing . . . , meaning that you would be receiving a 4-year 6-month prison sentence at that time." When the court asked if he understood, Martin paused to discuss something with his attorney. After that discussion, he responded, "All right. Yes." The court then explained good-time credit and after confirming with Martin that he understood, asked if Martin "need[ed] a moment with counsel[.]" Martin took some time to have a discussion with his attorney. Following that discussion, the court resumed its colloquy.

{¶ 6} During its discussion of Martin's eligibility for community control, the court had the following exchange with Martin:

THE COURT: Now here the parties are agreeing to a prison sentence. The Court is not going to consider probation or community control at this time.

Do you understand that?

THE DEFENDANT: Yes. That's because I agreed to the sentence, correct?

THE COURT: Under these charges, technically, you would be eligible for a probation or a community control sanction. The parties have indicated that they believe that this sentence is appropriate given your record and the incidents that occurred here. My understanding is you're in agreement with that.

THE DEFENDANT: Hold on.

Martin had another discussion with his attorney before defense counsel asked if the court could "take a two-minute break, so [they] can talk?" The court agreed to give Martin and counsel some time to talk.

When the court went back on the record, the following exchange occurred:

THE COURT: I understand that you've had an opportunity to consult your client, [defense counsel]. Is he prepared to proceed?

[Defense counsel]: Yes, thank you very much. . . . I believe he's clear on this, and accepting of the plea agreement as the terms set forth by the Government previously.

THE COURT: Is that correct, Mr. Martin?

THE DEFENDANT: Yes, sir, Your Honor.

THE COURT: You're prepared to proceed then?

THE DEFENDANT: Yes, sir.

After receiving that reassurance from Martin, the court again resumed the plea colloquy.

{¶ 7} Following a discussion of the constitutional rights that Martin was giving up by pleading guilty, the trial court asked Martin about his interactions with counsel and his understanding of the plea:

THE COURT: Have you had a full opportunity to discuss these matters with your counsel?

THE DEFENDANT: Yes, sir.

THE COURT: Have you shared with him all information that you know that's related to these charges?

THE DEFENDANT: Yes, sir.

THE COURT: Has he shared with you the information that the State provided with regard to what the State intends to prove?

THE DEFENDANT: Yes, sir.

THE COURT: Have you had a chance to discuss with him any possible defenses that you might have to the charges?

THE DEFENDANT: Yes, sir.

THE COURT: Are you satisfied with his advice and competence?

THE DEFENDANT : Yes, sir.

THE COURT: Did he have a chance to share with you the written plea agreement?

THE DEFENDANT: Yes, sir, yes.

THE COURT: Did you get a chance to review that with him?

THE DEFENDANT: Yes, sir.

THE COURT: Do you believe you understand the terms and conditions in that document?

THE DEFENDANT: Yes, sir.

THE COURT: Do you believe it's in your best interests to enter into the plea?

THE DEFENDANT: Yes, sir.

The court went on to review the terms of the plea deal another time:

THE COURT: Now other than what we've discussed here, the reduction of charge, Count 2 to a felony of the third degree, pleading to Count 3 and Count 6, and the dismissal of the remaining charges, also the agreement to come back for sentencing . . . where the parties would jointly recommend to the Court the 4-year 6-month prison sentence in aggregate, have there been any other threats or promises that have been made to you by your attorney, the State's representative, or the Court to cause you to enter into the plea agreement?

I should also say in addition, the State's indication they would not oppose judicial release after three years.

Is there anything else that we have failed to mention?

THE DEFENDANT: No.

{¶ 8} Toward the end of the hearing, after Martin had entered his guilty pleas, the court and Martin had the following exchange:

THE COURT: Are those pleas being made voluntarily and of your own free will?

THE DEFENDANT: Yes.

THE COURT: Have you understood the proceedings here in court today?

THE DEFENDANT: Yes.

THE COURT: Do you have any questions about what we've done up to this point?

THE DEFENDANT: Well, I—it don't matter.

THE COURT: Well, if you have a question, now is the time to ask it. You don't want to wait until later.

THE DEFENDANT: My only question is, okay, I agreed to the charges, but I guess that was an agreed sentence as well is what I'm really not agreeing with that. You know what I'm saying?

THE COURT: The Court is taking your plea under the understanding that you're . . . agreeing to that 4-year 6-month sentence.

THE DEFENDANT: Right.

THE COURT: If that's not the case, you might want to discuss it further with your counsel, because when we leave here today, that's what the deal is.

THE DEFENDANT: Right. I—yeah.

[Defense counsel]: The other alternative as we talked about you plead to the felony two drug charge, felony three weapon disability, leave the arguments up to the Judge, but understanding that the felony two is a mandatory two to eight.

THE DEFENDANT: Yeah. Yes, I understand.

THE COURT: All right. Then you're in agreement with the sentence?

THE DEFENDANT: I agree. I agree with it.

{¶ 9} Finally, the trial court accepted Martin's guilty pleas, found him guilty, ordered a presentence investigation, and set the case for sentencing.

{¶ 10} Three weeks later, before the sentencing hearing, Martin filed a motion to withdraw his pleas. In it, he claimed that he “did NOT fully understand the consequences of his plea due to a variety of circumstances” He argued that (1) the State would not be prejudiced by the motion; (2) he was not able to focus at the plea hearing because he was “in a state of extreme stress” and was distracted by his child being in the courtroom; (3) he struggled to understand the plea and asked for a break because he was confused; (4) the written plea agreement did not include the recommended sentence, and he did not fully understand the possible penalties he was facing because he mistakenly presumed that the sentence recommendation had been removed from the most recent version of the plea agreement; (5) when the court recited the recommended sentence, Martin “went

along with the plea because he was too nervous to speak up”; and (6) he had a valid defense to the charges, as set forth in the suppression motion that he had filed and withdrawn, and wanted to proceed to a suppression hearing.

{¶ 11} In the affidavit that he filed with his motion, Martin claimed that he was under “extreme tension and stress” the day of the plea hearing due to “extremely stressful circumstances going on in [his] life” and being distracted by his child being in the courtroom during the plea hearing. He also averred that the agreed sentence was not in the written plea agreement, he mistakenly believed that the change in the plea offer from one second-degree and one third-degree felony to two third-degree felonies also changed the 4.5-year recommended sentence, and he was “confused” when he was given an appointment for a presentence investigation. Martin also filed an affidavit from a woman who claimed that she was in the car with him when he was pulled over, and the gun found in the car belonged to her.

{¶ 12} The trial court held a hearing on Martin’s motion to withdraw his plea. At the hearing, Martin testified that he had several deaths in his family in the months leading up to the plea hearing. As a result, he “really [was] not focused” and “can’t focus right.” The plea the State originally offered him was a second-degree felony, a third-degree felony, and a misdemeanor. When the plea offer changed to two third-degree felonies and a misdemeanor, Martin mistakenly believed that the sentencing recommendation had changed, too. The written plea agreement that he signed did not include the sentencing recommendation. He admitted that the trial court had discussed the sentencing recommendation but claimed that he had trouble understanding. He asked for several

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breaks during the hearing because “that’s not an agreement [he] agreed to.” When the court told him about the recommendation, he was “saying, yeah, but in [his] mind [he] was scared. . . . [He] was like, I shouldn’t be agreeing to that, because I don’t agree with it.” Additionally, he did not expect his child to be in the courtroom and the child being there caused him to lose focus. Martin wanted to withdraw his plea because “I’m not guilty of drug trafficking. I didn’t have a gun on me. I’m not guilty of a drug charge.” He also believed that he had good grounds for a suppression motion.

{¶ 13} On cross-examination, Martin admitted that he told his attorney before the plea hearing that he agreed to pleading to two third-degree felonies and a misdemeanor. However, he claimed that his attorney never told him about the recommended 4.5-year sentence. He recalled the trial court mentioning the recommended sentence twice during the plea hearing; he did not recall the court mentioning it six or seven times.

{¶ 14} Regarding the charges against him, he admitted that he was on video telling the officers who arrested him that the gun in his car was his, but he claimed that the gun was not actually his. He also admitted that he had a prior felony but denied being in possession of a gun at the time of his arrest.

{¶ 15} After hearing the testimony and the attorneys’ arguments, the trial court denied Martin’s motion. It recalled that Martin’s case was set out for sentencing for Martin’s convenience to allow him to get his affairs in order because he knew when he came to court for sentencing, he was going to prison for 4.5 years. The plea-hearing transcript was “replete with indications that we went through that fully to [Martin’s] understanding at that time.” The court noted that Martin acknowledged the 4.5-year

sentence recommendation six times during the plea hearing, three of them after consulting with his attorney. The court believed that Martin’s motion was “simply another purpose for delay.” It explained that it had given Martin “more than enough chances to change [his] mind” but he “did not do so.” It also found Martin’s testimony that his attorney did not tell him about the sentencing agreement to be not credible.

{¶ 16} The court proceeded with Martin’s sentencing. It imposed an aggregate prison sentence of 54 months.

{¶ 17} Martin now appeals, raising three assignments of error:

(1.) THE TRIAL COURT SHOULD HAVE WITHDRAWN APPELLANT’S GUILTY PLEA BEFORE SENTENCING HIM.

(2.) THERE IS NO FINDING OR SUPPORT THAT APPELLANT HAS OR HAD THE MEANS TO PAY FOR THE COURT TO IMPOSE FINANCIAL SANCTIONS AND RELATED COSTS.

(3.) THE TRIAL COURT FAILED TO ORDER A DEFINITE SENTENCE, LEAVING THE EXECUTIVE BRANCH TO ACT AS JUDGE.

II. Law and Analysis

A. The trial court did not abuse its discretion by denying Martin’s motion to withdraw his plea.

{¶ 18} Under Crim.R. 32.1, a defendant can move to withdraw his guilty plea “only before sentence is imposed” However, “to correct manifest injustice the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw his or her plea.” *Id.* The Ohio Supreme Court has recognized that “a presentence motion to withdraw a guilty plea should be freely and liberally granted.” *State v. Xie*, 62 Ohio St.3d 521, 527 (1992). The court has emphasized that “when a

defendant pleads guilty to one or more crimes and later wants to withdraw that plea before he has been sentenced, the trial court should permit him to withdraw his plea.” *State v. Barnes*, 2022-Ohio-4486, ¶ 21. “This,” the court explained, “is the presumption from which all other considerations must start.” *Id.* Nevertheless, “[a] defendant does not have an absolute right to withdraw a guilty plea prior to sentencing.” *Xie* at paragraph one of the syllabus.

{¶ 19} While Crim.R. 32.1 does not specify the circumstances under which a presentence motion to withdraw may be granted, Ohio courts typically evaluate nine factors when considering such a motion:

(1) whether the state will be prejudiced by withdrawal; (2) the representation afforded to the defendant by counsel; (3) the extent of the Crim.R. 11 plea hearing; (4) the extent of the hearing on the motion to withdraw; (5) whether the trial court gave full and fair consideration to the motion; (6) whether the timing of the motion was reasonable; (7) the reasons for the motion; (8) whether the defendant understood the nature of the charges and potential sentences; and (9) whether the accused was perhaps not guilty or had a complete defense to the charge.

State v. Murphy, 2008-Ohio-2382, ¶ 39 (6th Dist.), citing *State v. Griffin*, 141 Ohio App.3d 551, 554 (7th Dist. 2001). A mere change of heart is not a sufficient reason to permit withdrawal of a plea. *State v. Acosta*, 2016-Ohio-5698, ¶ 18 (6th Dist.).

{¶ 20} Upon the filing of a motion to withdraw a plea, the trial court “must conduct a hearing to determine whether there is a reasonable and legitimate basis for the withdrawal of the plea.” *Xie* at paragraph one of the syllabus. It is then left to the discretion of the trial court whether to allow the defendant to withdraw his plea. *Id.* at paragraph two of the syllabus. We will reverse the trial court’s decision only where there

has been an abuse of that discretion. *Id.* at 527. A trial court abuses its discretion when its decision is “contrary to law, unreasonable, not supported by the evidence, or grossly unsound.” (Internal quotation omitted.) *State v. Johnson*, 2019-Ohio-4613, ¶ 19 (6th Dist.).

{¶ 21} With these principles in mind, we review each of the factors that appellate courts routinely consider in ruling on a motion to withdraw a plea.

{¶ 22} *Whether the State will be prejudiced by withdrawal.* The State concedes that it did not present any evidence of prejudice and that this factor weighs in Martin’s favor. We agree.

{¶ 23} *The representation afforded to Martin by counsel.* Martin argues that he felt pressured by his attorney to plead guilty and maintains that his attorney never told him that he was agreeing to a 4.5-year prison sentence. The State responds that Martin’s attorney was able to secure a favorable plea deal, and Martin said at the plea hearing that he was satisfied with counsel’s representation and that he had had a “full opportunity” to discuss the case with counsel. The trial court found Martin’s claim that his attorney never told him about the agreed sentence not credible, and we must defer to the trial court in resolving factual disputes. *State v. Warren*, 2024-Ohio-1072, ¶ 23 (6th Dist.), citing *Xie* at 525, and *State v. Smith*, 49 Ohio St.2d 261, 264 (1977).

{¶ 24} Here, Martin was represented by counsel, he was given sufficient opportunity to discuss the plea agreement with counsel, and the trial court allowed him additional time to go off the record to consult with his attorney when he had questions during the plea hearing. We find that this factor weighs against Martin.

{¶ 25} *The extent of the Crim.R. 11 plea hearing.* Martin did not address this factor. We find that he received a full, complete Crim.R. 11 plea hearing and was given additional time to discuss matters with his attorney when he had questions or concerns about the plea agreement. This factor weighs against Martin.

{¶ 26} *The extent of the hearing on the motion to withdraw.* Martin did not address this factor. The trial court held a full hearing on the motion at which the attorneys argued, Martin made a statement to the court, and Martin testified. We find that this factor weighs against Martin.

{¶ 27} *Whether the trial court gave full and fair consideration to the motion.* Martin did not address this factor. Based on our review of the record, we find that that trial court gave full and fair consideration to Martin's motion. This factor weighs against Martin.

{¶ 28} *Whether the timing of the motion was reasonable.* Martin argues that the timing of the motion—three weeks post-plea and more than a month before sentencing—was reasonable, which the State concedes. This factor weighs in favor of Martin.

{¶ 29} *The reasons for the motion.* Martin contends that the motion does not reflect a mere change of heart. The motion asserts that Martin was under stress in his personal life, distracted by his child unexpectedly being in the courtroom, and too nervous to speak up about his concerns. The State argues that the trial court never had to stop the hearing because a child was causing a commotion, the court advised Martin multiple times during the hearing that he would be pleading guilty and receiving a 54-month prison sentence, Martin acknowledged the sentence multiple times, Martin

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acknowledged that he was satisfied with his attorney and that it was in his best interest to enter the pleas, and the trial court found that Martin fully understood the charges and consequences of his pleas.

{¶ 30} After considering the motion, we find that it reflects a change of heart. Therefore, this factor weighs against Martin.

{¶ 31} *Whether Martin understood the nature of the charges and potential sentences.* Martin contends that he did not understand that he would be receiving a 4.5-year prison sentence as a consequence of pleading guilty. He claims that counsel agreed to the sentence without his knowledge. He also reiterates that he was dealing with “mental health overload” and his child in the courtroom, so he was not properly focused on the plea colloquy. The State responds that Martin’s argument is “preposterous.” It points out that he acknowledged the recommended sentence six times during the plea hearing and that the trial court found his claim that counsel never told him about the sentence to be not credible.

{¶ 32} We agree with the State that Martin likely understood the potential sentence. The trial court clearly articulated the sentence four different times throughout the plea hearing, and Martin acknowledged his understanding of the sentence each time. Moreover, while Martin told the court at one point that he did not agree with the sentence, after discussion with counsel, he changed his mind and specifically said that he agreed with it. This factor weighs against Martin.

{¶ 33} *Whether Martin was perhaps not guilty or had a complete defense to the charge.* Finally, Martin argues that he is innocent of the weapons under disability charge.

He contends, without providing any support, that a suppression hearing would render the drugs and gun inadmissible, which would lead to his charges being dismissed. The State responds that Martin filed and withdrew two suppression motions, so he cannot now argue that he would have been successful at a suppression hearing. Additionally, Martin admitted to possessing cocaine and a gun.

{¶ 34} Although Martin asserts his innocence, the record shows that Martin had cocaine on his person and a gun in his car when he was arrested, which supports the charges Martin pleaded guilty to. Further, there is no indication that a suppression hearing would result in that evidence being suppressed. Therefore, we find that this factor weighs against Martin.

{¶ 35} Considering all of these factors, we find that they weigh most strongly against allowing Martin to withdraw his plea. Accordingly, we conclude that the trial court did not abuse its discretion when it denied his motion. Martin's first assignment of error is not well-taken.

B. The trial court erred in its imposition of fines.

{¶ 36} In his second assignment of error, Martin argues that the trial court erred by imposing costs and mandatory fines without considering his present and future ability to pay. He contends that the record does not support a finding that he can or will be able to pay the imposed costs and fines. In response, the State concedes that the trial court did not make an explicit finding that Martin has or will have the ability to pay before imposing the fines and costs. However, it contends that the PSI contains information from which the court could have determined Martin's ability to pay. It also points out

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that Martin never objected to the mandatory fines at sentencing, and the fines were included in the plea agreement.

{¶ 37} We review felony sentences under R.C. 2953.08(G)(2). An appellate court may vacate or modify any sentence that is not clearly and convincingly contrary to law only if the court finds by clear and convincing evidence that the record does not support the sentence. *State v. Marcum*, 2016-Ohio-1002, ¶ 23. “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. Thus, we may vacate or modify Martin’s sentence only if we find by clear and convincing evidence that the record does not support it.

1. Costs

{¶ 38} At the sentencing hearing, the trial court ordered Martin to pay “costs.” Similarly, the court’s sentencing entry imposed “costs” on Martin. “Costs” means “any costs that the Revised Code requires a court to impose upon an offender who has been convicted.” *State v. Lieb*, 2023-Ohio-574, ¶ 7 (6th Dist.). These mandatory costs are the costs of prosecution, authorized by R.C. 2947.23(A)(1)(a), and they are imposed without regard to a defendant’s ability to pay. *State v. Greene*, 2025-Ohio-1096, ¶ 95 (6th Dist.).

{¶ 39} Because the only costs that the trial court imposed in this case were the mandatory costs of prosecution, Martin’s ability to pay those costs is irrelevant. That is,

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a trial court is not required to consider the defendant's ability to pay before imposing costs of prosecution. *State v. Townsend*, 2023-Ohio-2625, ¶ 10 (6th Dist.). Because the court was not required to consider Martin's ability to pay when it imposed the costs of prosecution, the trial court did not err in imposing those costs.

2. Fines

{¶ 40} Under R.C. 2929.18(B)(1),

For a first, second, or third degree felony violation of any provision of Chapter 2925., . . . the sentencing court shall impose upon the offender a mandatory fine of at least one-half of, but not more than, the maximum statutory fine amount authorized for the level of the offense pursuant to [R.C. 2929.18(A)(3)]. If an offender alleges in an affidavit filed with the court prior to sentencing that the offender is indigent and unable to pay the mandatory fine and if the court determines the offender is an indigent person and is unable to pay the mandatory fine described in this division, the court shall not impose the mandatory fine upon the offender.

The maximum fine authorized for a third-degree felony is \$10,000. R.C.

2929.18(A)(3)(c).

{¶ 41} Before imposing a financial sanction or fine under R.C. 2929.18, the trial court must “consider the offender's present and future ability to pay the amount of the sanction or fine.” R.C. 2929.19(B)(5). However, a hearing on the defendant's ability to pay is not required. *State v. Saxer*, 2023-Ohio-3548, ¶ 14 (6th Dist.). Nor is a court required to make findings regarding ability to pay. *Id.* “All that is required is that the trial court consider a defendant's ability to pay[.]” *State v. Johnson*, 2021-Ohio-3380, ¶ 28 (6th Dist.), quoting *State v. Davenport*, 2017-Ohio-688, ¶ 31 (2d Dist.). The trial court “is not required to expressly state that it considered [a defendant's] ability to pay a fine[.]” (First brackets in original.) *Id.* Instead, the reviewing court may infer that the

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trial court considered the issue. *Id.* “And, although preferred on appellate review, a trial court need not explicitly state in its judgment entry that it considered a defendant’s ability to pay a financial sanction.” *Lieb* at ¶ 10. The appellate court looks at the totality of the record to determine whether the statutory requirement has been satisfied. *Id.* at ¶ 11. The trial court may comply with its obligation by, for example, considering a presentence investigation that includes information about the defendant’s age, health, education, and work history. *State v. Phillips*, 2022-Ohio-1262, ¶ 23 (2d Dist.).

{¶ 42} Martin was also fined under R.C. 4511.19 for his OVI conviction. Under R.C. 4511.19(G)(1)(a)(iii), a trial court shall sentence a defendant convicted of first-degree misdemeanor OVI to a fine of not less than \$565 and not more than \$1,075. Notably, R.C. 4511.19 does not require the court to consider the defendant’s ability to pay. *State v. Moore*, 2024-Ohio-2382, ¶ 22 (2d Dist.).

{¶ 43} Here, the trial court did not explicitly state that it considered Martin’s ability to pay the fines that it imposed under R.C. 2929.18. However, it reviewed and relied on the PSI, which contains information about Martin’s age, health, education, and work history. This is sufficient to show that the court considered Martin’s ability to pay before imposing the fines. Therefore, the trial court did not err in that regard.

{¶ 44} The trial court did err in imposing the fine under R.C. 4511.19, however. A fine is required by R.C. 4511.19(G)(1)(a)(iii), and the minimum fine the court was allowed to impose under that section was \$565. The trial court in this case imposed a fine of \$375, an amount not authorized by the OVI statute. Thus, we find that the court’s fine was contrary to law.

{¶ 45} The trial court also erred in its sentencing entry. Although it announced the mandatory \$5,000 fine required by R.C. 2929.18(B)(1) at the sentencing hearing, it failed to include that fine in its sentencing entry.

{¶ 46} In sum, because the trial court failed to impose the correct fine under R.C. 4511.19 and failed to include the fine under R.C. 2929.18 in its sentencing entry, Martin’s second assignment of error is well-taken, in part.

C. Postrelease control does not violate the separation of powers doctrine.

{¶ 47} In his final assignment of error, Martin argues that the trial court failed to order a definite postrelease control sentence, which violates the separation of powers doctrine. He contends that leaving the length of Martin’s postrelease control term up to the Adult Parole Authority encroaches upon the judicial branch’s authority to impose sentence. The State responds that we should follow the Eighth District’s decision in *State v. McFarland*, 2025-Ohio-3287 (8th Dist.), and find that the postrelease control statute does not violate the separation of powers doctrine.

{¶ 48} Postrelease control for certain felonies is mandated by R.C. 2967.28. For Martin’s third-degree felony convictions, the statute requires that “the offender be subject to a period of post-release control of up to two years after the offender’s release from imprisonment, if the parole board, in accordance with [R.C. 2967.28(D)], determines that a period of post-release control is necessary for that offender.” R.C. 2967.28(C). This is the term of postrelease control that the trial court imposed on Martin.

{¶ 49} “An enactment of the General Assembly is presumed to be constitutional, and before a court may declare it unconstitutional it must appear beyond a reasonable
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doubt that the legislation and constitutional provisions are clearly incompatible.” *State ex rel. Dickman v. Defenbacher*, 164 Ohio St. 142 (1955), paragraph one of the syllabus; *State v. Thompkins*, 75 Ohio St.3d 558, 560 (1996). The party challenging the statute bears the burden of proving the unconstitutionality of the statute beyond a reasonable doubt. *Thompkins* at 560.

{¶ 50} In *Woods v. Telb*, 89 Ohio St.3d 504 (2000), *superseded by statute on other grounds*, the Ohio Supreme Court determined that Ohio’s postrelease control scheme does not violate the separation of powers doctrine. Nothing about the way postrelease control operates (with the exception of the length of possible postrelease control terms) has changed since *Woods* was decided. Thus, we will follow *Woods* and find that Ohio’s postrelease control scheme does not violate the separation of powers doctrine. Martin’s third assignment of error is not well-taken.

III. Conclusion

{¶ 51} Based on the foregoing, the March 25, 2026 judgment of the Huron County Court of Common Pleas is affirmed in part, reversed in part, and remanded for a resentencing hearing at which the trial court shall impose a fine authorized by R.C. 4511.19(G)(1)(a)(iii). The trial court shall include the \$5,000 fine imposed under R.C. 2929.18(B)(1) in its judgment entry from the resentencing hearing. Martin is ordered to pay the costs of this appeal under App.R. 24.

Judgment affirmed in part and reversed in part.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.
See also 6th Dist.Loc.App.R. 4.

Christine E. Mayle, J.

JUDGE

Myron C. Duhart, J.

JUDGE

Charles E. Sulek, J.

CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
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