[Cite as *State v. Tran*, 2026-Ohio-4430.]

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

State of Ohio

Appellee

v.

Dung Tran

Appellant

Court of Appeals No. {22}E-25-037

Trial Court No. 2023 CR 0353

DECISION AND JUDGMENT

Decided: November 9, 2026

* * * * *

Kevin J. Baxter, Erie County Prosecuting Attorney, and
Kristin R. Palmer, Assistant Prosecuting Attorney, for appellee.

Hector G. Martinez, for appellant.

* * * * *

MAYLE, J.

{¶ 1} Appellant, Dung Tran, appeals the November 20, 2025 judgment of the Erie County Court of Common Pleas convicting him of multiple offenses and sentencing him to an aggregate term of seven years in prison. For the following reasons, we reverse.

I. Background and Facts

{¶ 2} Tran was indicted on four counts of rape in violation of R.C. 2907.02(A)(2), each a first-degree felony, and two counts of gross sexual imposition in violation of R.C. 2907.05(A)(1), each a fourth-degree felony.

{¶ 3} Tran and the State reached an agreement under which Tran agreed to plead guilty to amended charges of sexual battery in violation of R.C. 2907.03(A)(1), a third-

degree felony; aggravated assault in violation of R.C. 2903.12(A), a fourth-degree felony; and unlawful sexual conduct with a minor in violation of R.C. 2907.04(A), a third-degree felony. In return, the State agreed to request dismissal of the remaining charges at sentencing.

{¶ 4} The trial court conducted a plea colloquy and concluded that Tran had made a knowing, intelligent, and voluntary decision to plead guilty to the charges. The court found Tran guilty of sexual battery, aggravated assault, and unlawful sexual conduct with a minor.

{¶ 5} At the sentencing hearing, after hearing statements from the State, two of the victims, defense counsel, and Tran, the court imposed a prison term of three years on the sexual battery count, one year on the aggravated assault count, and three years on the unlawful sexual conduct count, to be served consecutively, for an aggregate prison term of seven years. In sentencing Tran, the court stated,

> The Court states for the record that it's obviously cognizant of the overriding purposes and principles of felony sentencing and does adhere to those purposes and principles as it must. . . .
>
> The Court has also weighed the relevant sentencing factors, those are set forth in 2929.12 (B), (C), (D) and (E) of the Ohio Revised Code, those being, as pointed out, seriousness factors as well as recidivism factors.
>
> . . .
>
> The Court would find that consecutive sentences are necessary because the sentence is proportionate to the seriousness of the Defendant's conduct, and the danger of future crimes, and the danger the Defendant poses to the public, and that the harm is so great that a single term does not adequately reflect the seriousness of the Defendant's conduct.

{¶ 6} In its sentencing entry, the trial court imposed a prison term of three years on the sexual battery count, one year on the aggravated assault count, and three years on the unlawful sexual conduct count, to be served consecutively, for an aggregate prison term of seven years. The court also made findings related to R.C. 2929.14(C)(4) in its entry.

{¶ 7} Tran now appeals, raising two assignments of error:

> THE TRIAL COURT FAILED TO MAKE THE REQUISITE MANDATORY FINDINGS UNDER R.C. 2929.14(C)(4) AT APPELLANT'S SENTENCING HEARING TO SUPPORT THE IMPOSITION OF CONSECUTIVE SENTENCES THEREBY RENDERING THE CONSECUTIVE SENTENCES IMPOSED UPON APPELLANT CONTRARY TO LAW.
>
> THE TRIAL COURT FAILED TO PROPERLY CONSIDER THE PURPOSES AND PRINCIPLES OF FELONY SENTENCING UNDER R.C. 2929.11 AS WELL AS THE SERIOUSNESS AND RECIDIVISM FACTORS UNDER R.C. 2929.12 THEREBY RENDERING THE CONSECUTIVE PRISON SENTENCES IMPOSED UPON APPELLANT CONTRARY TO LAW.

II. Law and Analysis

{¶ 8} In his first assignment of error, Tran argues that the trial court erred by sentencing him to consecutive sentences because the court failed to make all of the findings required by R.C. 2929.14(C)(4). The State concedes error.

{¶ 9} We review felony sentencing challenges under R.C. 2953.08(G)(2). *See State v. Kleinhans*, 2023-Ohio-2621, ¶ 24 (6th Dist.). Under that statute, an 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" only 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.

R.C. 2953.08(G)(2).

{¶ 10} Tran challenges the trial court's imposition of consecutive sentences under R.C. 2929.14(C)(4). Under that section, when a trial court imposes multiple prison terms for convictions of multiple offenses, it may require the offender to serve the prison terms consecutively if it finds that "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 it 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.

{¶ 11} Thus, this statute requires the trial court to make three statutory findings before imposing consecutive sentences. *State v. Beasley*, 2018-Ohio-493, ¶ 252; *State v. Bonnell*, 2014-Ohio-3177, ¶ 26. It must find that (1) consecutive sentences are necessary

to protect the public or to punish the offender; (2) consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger that the offender poses to the public; and (3) R.C. 2929.14(C)(4)(a), (b), or (c) is applicable. *Beasley* at ¶ 252. "[T]he trial court must make the requisite findings *both* at the sentencing hearing and in the sentencing entry." (Emphasis in original.) *Id.* at ¶ 253, citing *Bonnell* at ¶ 37.

{¶ 12} Here, Tran argues (and the State concedes) that the trial court's findings for imposing consecutive sentences fail to include all of the findings required by R.C. 2929.14(C)(4)(b). That is, although the court found that "the harm is so great that a single term does not adequately reflect the seriousness of [Tran's] conduct[,]" it did not find that "[a]t least two of the multiple offenses were committed as part of one or more courses of conduct, . . ." as required by R.C. 2929.14(C)(4)(b). The court's failure to make the complete finding makes Tran's sentence contrary to law. *State v. Walker*, 2021-Ohio-3860, ¶ 52-53 (6th Dist.). Therefore, we find Tran's first assignment of error well-taken.

{¶ 13} In his second assignment of error, Tran argues that the trial court erred by failing to weigh the factors in R.C. 2929.12 before sentencing him. Because we must remand this case for a new sentencing hearing, our resolution of Tran's first assignment of error moots his second assignment of error. Accordingly, Tran's second assignment of error is not well-taken.

III. Conclusion

{¶ 14} Based on the foregoing, the November 20, 2025 judgment of the Erie County Court of Common Pleas is reversed, Tran's sentence is vacated, and this case is remanded for a new sentencing hearing at which the trial court shall make all necessary R.C. 2929.14(C)(4) findings if it imposes consecutive sentences. The State is ordered to pay the costs of this appeal under App.R. 24.

Judgment reversed
and remanded.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27.

Christine E. Mayle, J.
JUDGE

Gene A. Zmuda, 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: http://www.supremecourt.ohio.gov/ROD/docs/.