

IN THE COURT OF APPEALS OF OHIO

SEVENTH APPELLATE DISTRICT
MAHONING COUNTY

STATE OF OHIO,

Plaintiff-Appellee,

v.

SAUN MATTHEW MARKESE PETERSON,

Defendant-Appellant.

OPINION AND JUDGMENT ENTRY Case No. 26 MA 0045

Criminal Appeal from the
Court of Common Pleas of Mahoning County, Ohio
Case No. 2023 CR 00362

BEFORE:

Cheryl L. Waite, Mark A. Hanni, Katelyn Dickey, Judges.

JUDGMENT:

Affirmed.

Atty. Lynn Maro, Mahoning County Prosecutor, *Atty. John B. Juhasz*, Criminal Division Chief, and *Atty. Brian P. Kish*, Assistant Prosecuting Attorney, for Plaintiff-Appellee and

Atty. Edward F. Borkowski, Jr., for Defendant-Appellant.

Dated: October 23, 2026

WAITE, P.J.

{¶1} Appellant Saun Matthew Markese Peterson appeals his conviction and sentence, based on a guilty plea, for involuntary manslaughter, felonious assault, improperly handling of a firearm in a motor vehicle, and obstructing justice, along with a five-year gun specification. He argues that his plea was not made knowingly, intelligently, and voluntarily because the court did not fully explain the effect of the plea. Although Appellant agrees that the court explained that a guilty plea constitutes an admission of guilt, he contends the court did not state that it was a complete admission of guilt as required by Crim.R. 11(B)(1). However, the record reflects that the court substantially complied with Crim.R. 11(B)(1) in explaining the significance of a guilty plea, and there is no reversible error.

{¶2} Appellant also contends that the court did not explain that he would still be bound by the plea even if he failed to testify against his codefendant. Appellant promised to testify in exchange for the state's recommendation of a ten to twelve-and-one-half year prison sentence. The record is clear that his promise to testify was only linked to the recommended sentence, and not to any withdrawal or invalidation of the guilty plea.

{¶3} Additionally, Appellant argues the trial court improperly denied his motion to withdraw his plea, but none of the factors that are reviewed when making a determination as to a presentence motion to withdraw weigh in Appellant's favor. Hence, the court did not abuse its discretion in denying the motion.

{¶4} Finally, Appellant argues that consecutive sentences were not appropriate in his case because the record does not support the court's finding that his crimes occurred as part of a course of conduct. Appellant is incorrect in this assertion, and the

record amply establishes that a course of conduct took place. Consecutive sentences were appropriate.

{¶15} As none of Appellant's three assignments of error have merit, the judgment of the trial court is affirmed.

Facts and Procedural History

{¶16} On April 15, 2023 a birthday party was being held at Martha's Boulevard Tavern in Youngstown, Ohio. A variety of young people attended the party, including a 15-year old girl, A.M. Appellant Saun Peterson knew about the party because it was hosted by his sister's boyfriend, and his sister was attending the party. Appellant arranged to pick his sister up at the end of the party, and drove to the site of the party in his blue 2010 Mercedes Benz. Codefendant Danyo Sellers rode with him in the front passenger seat. Sellers' nickname was Legend (both names are used in the record). Earlier that evening Appellant saw that Sellers/Legend had a gun in his possession. Appellant also picked up two other passengers on the way to the party's location.

{¶17} As Appellant reached the parking lot of the tavern, he saw young people outside, waving guns. Appellant drove aggressively around the parking lot three times, picking up speed as he traveled. Appellant drove in circles, purposely trying to antagonize these armed youth. On the third circle around the lot, gunfire erupted. Appellant saw Sellers climb part of the way out of the passenger side window and perch himself on the window sill. Appellant then heard Sellers fire his gun across the top of the car toward the gathering of young people, who were shooting back. As 15-year-old A.M. left the party, she was struck in the back by one of the bullets, piercing her lung and aorta. She died

from the wounds. We note that most of the facts of this case come from two proffers of evidence given by Appellant that are part of this record.

{¶8} As a result, on July 13, 2023 the Mahoning County Court of Common Pleas grand jury indicted Appellant and Sellers for murder (R.C. 2903.02), felonious assault (R.C. 2903.11), involuntary manslaughter (R.C. 2903.04), improperly handling of a firearm in a motor vehicle (R.C. 2923.16), and obstructing justice (R.C. 2921.23). These charges included one-year, three-year, and five-year gun specifications.

{¶9} On November 16, 2023, Appellant signed a written waiver of speedy trial.

{¶10} On November 27, 2023 Appellant entered into a Crim.R. 11 plea agreement. He agreed to plead guilty to felonious assault, involuntary manslaughter, improper handling of a firearm in a motor vehicle, and obstructing justice. He also agreed to one five-year gun specification. The state agreed to dismiss the murder charge and the other gun specifications. As part of the plea deal, Appellant agreed to testify truthfully against Danyo Sellers in his criminal trial, and the state agreed in exchange that it would recommend a sentence of ten-to-twelve-and-one-half years in prison upon full satisfaction of the plea agreement. At the change of plea hearing the court explained to Appellant the terms of the plea agreement, all of the rights he was waiving by entering his plea, and the effect of a guilty plea. The court explained the maximum penalties for each count. (11/27/23 Tr. p. 11-14.) The court then accepted Appellant's guilty plea. The written plea agreement was filed the next day. Appellant also submitted two recorded proffers of evidence detailing the events surrounding the crimes. Again, these proffers are part of the record.

{¶11} When the time came for Appellant to testify at the Sellers trial, he refused and asserted his Fifth Amendment right to remain silent.

{¶12} Appellant's sentencing was scheduled for April 15, 2026. On February 27, 2026 the state filed a motion to vacate the guilty plea. However, on March 23, 2026 the state filed a motion for leave to withdraw its motion to vacate the plea. The court granted the state's motion to withdraw its motion to vacate on March 24, 2026 and ordered that sentencing would proceed as scheduled on April 15, 2026.

{¶13} On March 23, 2026, Appellant filed a motion to withdraw his guilty plea. The state opposed the motion on March 26, 2026.

{¶14} Sentencing occurred on April 15, 2026. The first part of the sentencing hearing dealt with the state's motion to withdraw its motion to vacate the plea agreement (which the court had already granted), and Appellant's subsequent motion seeking to withdraw the plea. Appellant argued that his motion to withdraw was timely, that he had a possible defense (primarily, that his codefendant had been acquitted, indicating to Appellant that he also might be acquitted), and that he was pressured into pleading guilty. The state responded that the timing of the motion was suspect, coming two years and five months after Appellant entered his plea. Additionally, the state's position was that there was no possible defense; there was no evidence of any pressure to enter the plea; and that the state would suffer prejudice if the plea was allowed to be withdrawn. The court reviewed all of the factors involved in determining whether to grant a presentence motion to withdraw a plea. (4/15/26 Sentencing Tr., p. 24-32.) The court then orally denied Appellant's motion to withdraw. (4/15/26 Sentencing Tr., p. 32.)

{¶15} The court proceeded to the sentencing portion of the hearing, where the victim’s mother gave a statement. The court reviewed the charges that were part of the plea agreement, merged counts two and three, and sentenced Appellant as follows: 11 to 16.5 years in prison for involuntary manslaughter; 5 years on the firearm specification; 18 months for improper handling of a firearm in a motor vehicle; and 3 years for obstructing justice; for a total of 20.5 to 26 years in prison.

{¶16} The trial court filed its sentencing entry on April 28, 2026. Appellant filed his appeal on April 28, 2026, and raises three assignments of error.

ASSIGNMENT OF ERROR NO. 1

THE TRIAL COURT ERRED BY ACCEPTING APPELLANT’S GUILTY PLEA WHEN IT WAS NOT KNOWINGLY, INTELLIGENTLY, AND VOLUNTARILY MADE.

{¶17} Appellant argues that his guilty plea was not made knowingly, intelligently, or voluntarily for two reasons: first, because the trial court failed to fully explain to him that Appellant’s plea had the effect of making a complete admission of guilt; and second, the trial court failed to explain to Appellant what would happen if he failed to testify against his codefendant. He claims that he did not understand he could still be found guilty and sentenced even though he violated the plea agreement.

{¶18} When a defendant enters a guilty plea, it must be done knowingly, intelligently, and voluntarily. *State v. Veney*, 2008-Ohio-5200, ¶ 7. The procedure set forth in Crim.R. 11 governing guilty pleas is meant to ensure that a plea is entered into knowingly, intelligently, and voluntarily. *State v. Rowbotham*, 2007-Ohio-6227, ¶ 17 (7th

Dist.). Before accepting a guilty plea, the trial court must advise the defendant of certain constitutional and nonconstitutional rights. *State v. Henderson*, 2024-Ohio-4854, ¶ 21 (7th Dist.). As to nonconstitutional rights, the court must inform the defendant of the effect of the guilty plea, must determine the defendant understands the effect of the guilty plea, and must explain that the court, upon acceptance of the plea, may proceed with judgment and sentence. *Id.* at ¶ 22, citing Crim.R. 11(C)(2). “The court’s dialogue regarding nonconstitutional rights is reviewed for substantial compliance.” *Id.* “Under the substantial-compliance standard, we review the totality of circumstances surrounding [the defendant’s] plea and determine whether he subjectively understood [the effect of his plea].” *State v. Sarkozy*, 2008-Ohio-509, ¶ 20. A trial court’s advisement as to the effect of a guilty plea is a nonconstitutional right. *State v. Craft*, 2026-Ohio-1205, ¶ 131 (7th Dist.).

{¶19} Crim.R. 11(B)(1) states:

(B) Effect of Guilty or No Contest Pleas. With reference to the offense or offenses to which the plea is entered: (1) The plea of guilty is a complete admission of the defendant’s guilt.

{¶20} Crim.R. 11(C)(2)(b) states:

(2) In felony cases the court may refuse to accept a plea of guilty or a plea of no contest, and shall not accept a plea of guilty or no contest without first addressing the defendant personally either in-person or by remote contemporaneous video in conformity with Crim.R. 43(A) and doing all of the following:

. . .

(b) Informing the defendant of and determining that the defendant understands the effect of the plea of guilty or no contest, and that the court, upon acceptance of the plea, may proceed with judgment and sentence.

{¶21} In this appeal, the trial court did advise Appellant that his guilty plea was an admission of guilt to the charges: “Court: . . . Do you understand that by pleading guilty, you will be admitting to those charges, and you’d be subject to the penalties that correspond to those charges?” (11/27/23 Tr., p. 11.) While the court did not say “complete” admission of guilt, as set forth in Crim.R. 11(B)(1), notably, the November 28, 2023 written plea agreement does use the phrase “complete admission of any GUILT.” Thus, even though the court did not use the word “complete” or “completely” when speaking to Appellant, the court’s advisement, especially in light of the written plea agreement, substantially complies with Crim.R. 11.

{¶22} Further, Appellant did not assert actual innocence. “[A] defendant who has entered a guilty plea without asserting actual innocence is presumed to understand that he has completely admitted his guilt.” *State v. McClelland*, 2021-Ohio-3018, ¶ 37 (7th Dist.). In this case, Appellant was presumed to know that an admission of guilt meant a complete admission of guilt.

{¶23} In addition, in order to establish reversible error for failure to advise a defendant of a nonconstitutional right, the defendant must also show prejudice: “[W]e hold that a defendant who has entered a guilty plea without asserting actual innocence is presumed to understand that he has completely admitted his guilt. In such circumstances,

a court's failure to inform the defendant of the effect of his guilty plea as required by Crim.R. 11 is presumed not to be prejudicial.” *State v. Griggs*, 2004-Ohio-4415, ¶ 19. There is a limited exception to the presumption of prejudice if the court completely fails to advise of the effect of the plea. *State v. Dangler*, 2020-Ohio-2765, ¶ 14-15. That exception does not apply in this case. Appellant did not assert actual innocence at his plea hearing, and he is required to show not only error but also prejudice. Appellant has not alleged prejudice, and has certainly not shown any prejudice in this case. Thus, his argument in this regard is not persuasive.

{¶24} Appellant also contends that there was no factual basis for the plea placed in the record at the change of plea hearing. The requirement to show a factual basis for a plea refers to misdemeanor no contest pleas (see R.C. 2937.07), not to felony guilty pleas. “A guilty plea is a complete admission of the facts set forth in the indictment, including all specifications contained therein.” *State v. Fry*, 2021-Ohio-2838, ¶ 26 (8th Dist.). “The State has no obligation at the plea hearing to set forth the factual basis for a guilty plea.” *State v. Hill*, 2020-Ohio-7, ¶ 11 (2d Dist.).

{¶25} Appellant urges that a showing of prejudice is not required when there is a complete failure to advise of the effect of a guilty plea, and when the factual basis of the plea is not placed in the record. Appellant cites *State v. Molina*, 2025-Ohio-4758 (8th Dist.) in support. *Molina* held that: “[A] trial court does not completely fail to comply with Crim.R. 11(C)(2)(b), even though the court did not explicitly inform the defendant that his or her guilty plea is complete admission of guilt, if it is obvious from the context of the plea colloquy that the defendant understood the effect of his or her ‘guilty’ plea.” *Id.* at ¶ 20. *Molina* does discuss other cases where the trial court failed to read into the record the

counts as contained in the indictment and where there was no recitation of the facts of the crime placed in the record, and in some of those cases reversible error was found. Although the trial court in the instant case did not read the indictment into the record, the record does contain a complete factual account of the crimes as contained in the two proffers of evidence given by Appellant. The court discusses Appellant's proffers during the plea colloquy. (11/27/23 Tr., p. 5.) The proffers are part of the record and provide a complete description of the crimes. Therefore, even if this Court had adopted the *Molina* reasoning and its underlying cases (such as *State v. Fontanez*, 2024-Ohio-4579 (8th Dist.)), which it has not, the *Molina* exception to the prejudice requirement would not apply here because the facts of the case are part of the record. Once again, the trial court substantially complied with Crim.R. 11, there is no prejudice alleged or shown, and Appellant's argument is not persuasive.

{¶26} Appellant also argues that the trial court did not explain he could still be sentenced, and that his plea would still be valid, even if he violated the plea agreement. Appellant cites no law for his belief that the underlying guilty plea was no longer valid once he failed to comply with his promise to testify against his codefendant. The plea agreement actually links Appellant's promise to testify to only a single condition: if Appellant kept his promise to testify, the state would recommend a ten-to-twelve-and-one-half year sentence. (11/28/24 Plea Agreement, p. 2.) The trial court fully explained that the state's recommendation of a ten-to-twelve-and-one-half year sentence was based solely on the condition that Appellant testify fully and truthfully against his codefendant: "The condition is that you truthfully testify in full satisfaction of the State against the codefendants in this matter" (11/27/23 Tr., p. 13.) Nothing in the plea

agreement or at the plea hearing indicated that the plea itself would be invalidated if Appellant failed to testify.

{¶27} This Court dealt with an almost identical situation in the recent case of *State v. Gutierrez*, 2024-Ohio-2767, ¶ 33 (7th Dist.). In *Gutierrez*, the defendant committed a number of violations of the plea agreement. Most notably, he committed additional crimes after the guilty plea was accepted. The state asked the trial court to relieve it of its promise in the plea agreement to recommend a four-year prison term. The trial court granted the state’s request, while still enforcing the guilty plea itself. We agreed that the state was not bound by its sentencing recommendation because Gutierrez had breached the plea agreement. “[A] breach of the contract by the defendant relieves the prosecution of any obligations under the agreement.” *Id.* at ¶ 31. Although Gutierrez argued that the plea itself was no longer valid, we rejected that argument and enforced the guilty plea, even while allowing the state to make a different sentencing recommendation. *Id.* at ¶ 35.

{¶28} Appellant’s first assignment of error is overruled.

ASSIGNMENT OF ERROR NO. 2

THE TRIAL COURT ERRED BY DENYING APPELLANT’S PRETRIAL MOTION TO WITHDRAW HIS GUILTY PLEA.

{¶29} Appellant argues that the trial court should have allowed him to withdraw his guilty plea because he felt pressured to enter the plea and because he had a defense to the charges. He also generally argues that the trial court did not give full and fair consideration to his motion to withdraw.

{¶30} Crim.R. 32.1 governs the withdrawal of a guilty plea. It provides: “A motion to withdraw a plea of guilty or no contest may be made only before sentence is imposed; but 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.”

{¶31} Crim.R. 32.1 provides no direct guidance for deciding a presentence motion. *State v. Xie*, 62 Ohio St.3d 521, 526 (1992). Ohio’s courts have developed a framework for applying Crim.R. 32.1. “[A] presentence motion to withdraw a guilty plea should be freely and liberally granted. Nevertheless, it must be recognized that a defendant does not have an absolute right to withdraw a plea prior to sentencing.” *Id.* at 527. The trial court must determine “whether there is a reasonable and legitimate basis for the withdrawal of the plea.” *Id.*

{¶32} “Any decision on a presentence motion seeking to withdraw a plea is within the sound discretion of the trial court.” *State v. Cheza*, 2025-Ohio-3127, ¶ 17 (7th Dist.). “Abuse of discretion means an error in judgment involving a decision that is unreasonable based upon the record; that the appellate court merely may have reached a different result is not enough.” *State v. Dixon*, 2013-Ohio-2951, ¶ 21 (7th Dist.). “[U]nless it is shown that the trial court acted unjustly or unfairly, there is no abuse of discretion.” *Xie* at 526.

We have adopted a non-exhaustive list of nine factors a trial court must weigh when considering a presentence motion to withdraw a plea: (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) whether the defendant understood the nature of the charges

and potential sentences; (5) the extent of the hearing on the motion to withdraw; (6) whether the trial court gave full and fair consideration to the motion; (7) whether the timing of the motion was reasonable; (8) the reasons for the motion; and (9) whether the accused was perhaps not guilty or had a complete defense to the charge. *State v. Scott*, 2008-Ohio-5043, ¶ 13 (7th Dist.), citing *State v. Fish*, 104 Ohio App.3d 236, 240 (1st Dist. 1995). Consideration of these factors involves a balancing test, and no single factor is conclusive. *Id.*

Cheza at ¶ 18.

{¶33} “While we do evaluate the *Fish* factors on review, we may not independently substitute our judgment for the trial court’s when giving weight to those factors where the trial court’s use of its discretion is reasonable.” *Cheza* at ¶ 17. “[T]he trial court [is] in the best position to determine [the defendant]’s motivation to enter his plea initially and his credibility at the subsequent plea withdrawal hearing.” *State v. Howard*, 2017-Ohio-9392, ¶ 28 (4th Dist.).

{¶34} The trial court will normally conduct a hearing to determine if there is a reasonable and legitimate basis for withdrawing the plea. *Xie* at 527. Such a hearing took place in this case.

{¶35} “When none of the *Fish* factors weigh heavily in the defendant’s favor regarding the presentence withdrawal of a guilty plea, a strong inference arises that the plea is being withdrawn merely because of a change of heart about entering the plea.” *State v. Moore*, 2008-Ohio-1039, ¶ 13 (7th Dist.). “It is axiomatic that a mere change of

heart has been found to be an insufficient basis for granting a presentence motion to withdraw a plea.” *Id.*

{¶36} The hearing on Appellant’s request to withdraw his plea took place just before sentencing. The court examined each of the *Fish* factors at the hearing. The court found that the state would be prejudiced by the withdrawal, particularly since Appellant failed to testify at the codefendant’s trial and, thus, the state could not test the assertions of fact given in Appellant’s proffers of evidence. The court found that Appellant was represented by very thorough and capable counsel. The court held that there was an adequate Crim.R. 11 hearing before the plea was accepted. Nothing was submitted questioning the quality of that hearing. The court held that Appellant fully understood the nature of the charges and potential sentences. The record shows that the court had previously explained what the potential maximum penalties would be for each charge. (11/27/23 Tr. p. 11-14.) The court held that the hearing on the motion to withdraw was extensive, and the record shows that Appellant was able to present all of his arguments and had as much time as he needed. The court held that it gave full and fair consideration to the motion, and this is supported by the record. The court found the timing of the motion was suspect and did not weigh in Appellant’s favor, coming on the eve of sentencing more than two years after the plea was made, and only after his codefendant was found not guilty primarily because Appellant did not testify. As for Appellant’s argument that he was pressured into accepting the plea, the court found nothing in the record to support that allegation. As to possible defenses, Appellant contended at all times that he was only the driver and not the shooter, but the court explained that this argument does not constitute a defense, and if convicted at trial Appellant would have

been sentenced as if he were the shooter. The court also reviewed the proffers Appellant made. That evidence does not indicate in any way Appellant was innocent or had a defense to his charges. Appellant's defense appeared to be that as his codefendant was acquitted, it was possible Appellant might also be acquitted because his codefendant was unlikely to testify against him. This assertion seems to indicate that Appellant and his codefendant may have had a plan to evade conviction. Regardless, it does not raise any potential defenses. Instead, it raises the idea that the state may have had a potential deficiency in the evidence at his trial, but any deficiency was rendered less likely due to his own proffers. It appears from this record Appellant merely had a change of heart, here, which in no way supports his request to withdraw his plea.

{¶37} We agree that none of the *Fish* factors weigh in Appellant's favor, and some of the factors clearly indicate Appellant simply had a change of heart. The trial court did not abuse its discretion in denying Appellant's motion to withdraw and its decision is fully supported by this record. Appellant's second assignment of error is overruled.

ASSIGNMENT OF ERROR NO. 3

APPELLANT'S SENTENCE IS CONTRARY TO LAW.

{¶38} Appellant contends that the record does not support the imposition of consecutive sentences in this matter. He argues that the trial court found the crimes were committed as part of a course of conduct, and while such finding was required to impose consecutive sentences, the weight of the evidence does not support the trial court's finding.

{¶39} R.C. 2929.14(C)(4) requires that the trial court make three findings before imposing consecutive sentences: (1) consecutive sentencing is necessary to protect the public from future crime or to punish the offender; (2) the consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the offender poses to the public; and (3) the court must make one of the findings required by sub-sections (a), (b), or (c). In this case, the trial court relied on sub-section (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.”

{¶40} The appellate standard for reviewing a felony sentence is primarily found in R.C. 2953.08(G)(2). An appellate court's standard of review is not whether the sentencing court abused its discretion. Instead, “[t]he 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 . . . (C)(4) of section 2929.14 . . .; (b) That the sentence is otherwise contrary to law.” See *State v. Marcum*, 2016-Ohio-1002, ¶ 1.

{¶41} A sentence is otherwise contrary to law if the trial court fails to make the consecutive sentencing findings required by R.C. 2929.14(C). *State v. Sargent*, 2025-Ohio-2579, ¶ 39 (7th Dist.). Appellant concedes that the trial court made the necessary findings and that one of the findings was that the crimes were committed as part of a course of conduct.

{¶42} Many recent sentencing appeals now coming before this Court seek to overturn consecutive sentencing on the grounds that the record does not support the findings, in essence asking this Court to overturn the sentence based on the manifest weight of the evidence. We have recently rejected this argument: “An appellate court cannot weigh the evidence in the record and substitute its judgment for that of the trial court concerning a sentence that best reflects compliance with the overriding purposes of felony sentencing. *State v. Jones*, 2020-Ohio-6729, paragraph one of the syllabus. An appellate court cannot make a ‘freestanding inquiry’ regarding whether a felony sentence is appropriate. *Id.* at ¶ 42.” *State v. Adams*, 2026-Ohio-1128, ¶ 14 (7th Dist.).

{¶43} *Adams* is very similar to this case, in that the consecutive sentence challenge was made in response to sentencing after a guilty plea. We stated: “Appellant's entire argument is based on his insistence that we must weigh the evidence supporting consecutive sentences. . . . Appellant's conviction was based on a guilty plea, so there was no trial to determine all of the facts in this case. Appellant is relying on his and his counsel's assertions to the court at the sentencing hearing. However, as it is clear that Appellant wants us to weigh this ‘evidence’ and come to a different conclusion than the trial court, it is equally clear he cannot prevail in this appeal.” *Id.* at ¶ 16.

{¶44} Appellant's argument is solely directed at the finding that there was a course of conduct. The phrase “course of conduct” is not defined in R.C. 2929.14(C)(4)(b). *State v. Squires*, 2021-Ohio-2035, ¶ 11 (8th Dist.). Certain courts have defined “course of conduct”:

The supreme court has held that, for purposes of a death specification in a case involving multiple murders, a course of conduct may be established by

factual links, including time, location, weapon, cause of death, or similar motivation. *State v. Short*, 129 Ohio St.3d 360, 2011-Ohio-3641, 952 N.E.2d 1121, ¶ 144. Ohio Jury Instructions has included this definition in at least one of its instructions. See 2 Ohio Jury Instructions 513.49(E)(6). Similarly, “some connection, common scheme, or some pattern or psychological thread that ties” offenses together can establish a single course of conduct. *State v. Sapp*, 105 Ohio St.3d 104, 2004-Ohio-7008, 822 N.E.2d 1239, syllabus.

State v. Summers, 2014-Ohio-2441, ¶ 14 (2d Dist.).

{¶45} Regarding course of conduct here, the record shows Appellant drove to the place of the crime knowing that his codefendant, Danyo Sellers, had a gun. He stopped to pick up other passengers. Appellant drove around the parking lot at high speed three times trying to antagonize the people outside of the tavern who were displaying their firearms. (11/27/23 Proffer, p. 7.) While Appellant drove, Sellers put his arm outside the passenger window displaying his own gun. Appellant was aware that this was a public area and that there was a party going on nearby where his sister and her friends were in attendance. Appellant continued to circle the lot while Sellers crawled through the passenger side window with the gun, balanced himself on the window sill, leaned across the top of car, and fired. Although Appellant could not remember the exact number of times that Sellers fired the weapon, he called the gunfire exchange a “shootout,” implying that multiple shots were fired. (9/8/25 Proffer, p. 13.) Appellant then drove his car away from the scene of the crime. There is no question that this was not the result of a momentary action, but took place over a period of time involving several different actions,

and where multiple shots were fired. The record shows there is no question that the charges were part of one or more courses of conduct.

{¶46} Appellant also alleges that the maximum sentences were not appropriate. Appellant cites no law to support his contention. The trial court discussed maximum sentences at the sentencing hearing. (4/15/26 Tr., p. 46-47.) The court gave its reasons for imposing maximum sentences, and cited R.C. 2929.11, 2929.12, and 2929.13. Absent some further occurrence not apparent from this record, the record supports the imposition of maximum sentences.

{¶47} Hence, Appellant's third assignment of error also has no merit and is overruled.

Conclusion

{¶48} Appellant argues that his plea was not made knowingly, intelligently, and voluntarily because the court did not explain the effect of a guilty plea, but the record contradicts his argument. Further, Appellant has not argued or shown prejudice from the court's explanation. Appellant's contention that the court did not explain he would still be bound by his plea even if he failed to testify against his codefendant is similarly unsupported in the record. Appellant contends that the trial court should have granted his presentence motion to withdraw his plea, but the factors used to evaluate a presentence motion to withdraw, found in *State v. Fish*, all weighed against granting the motion. There was no error in denying this motion. Appellant's final argument, that the record does not support imposing consecutive sentences because there was no evidence that his crimes were committed as part of a course of conduct, is again contradicted in

the record. Appellant's three assignments of error are overruled, and the judgment of the trial court is affirmed.

Hanni, J., concurs.

Dickey, J., concurs.

For the reasons stated in the Opinion rendered herein, the assignments of error are overruled and it is the final judgment and order of this Court that the judgment of the Court of Common Pleas of Mahoning County, Ohio, is affirmed. Costs to be waived.

A certified copy of this opinion and judgment entry shall constitute the mandate in this case pursuant to Rule 27 of the Rules of Appellate Procedure. It is ordered that a certified copy be sent by the clerk to the trial court to carry this judgment into execution.

NOTICE TO COUNSEL

This document constitutes a final judgment entry.