

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO, :
 :
 Plaintiff-Appellee, :
 : No. 112200
 v. :
 :
 GEORGE GLEASON, :
 :
 Defendant-Appellant. :

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: August 24, 2023

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-22-671628-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting
Attorney, and Mallory Buelow, Assistant Prosecuting
Attorney, *for appellee*.

Allison S. Breneman, *for appellant*.

EMANUELLA D. GROVES, J.:

{¶ 1} Defendant-appellant, George Gleason (“Gleason”), appeals from the imposition of consecutive sentences after a plea to three counts of aggravated menacing. For the following reasons, we affirm.

Facts and Procedural History

{¶ 2} On June 23, 2022, Gleason was indicted for 15 felony crimes, including seven counts of felonious assault, felonies of the second degree (Counts 1 through 7); seven counts of attempted aggravated arson, felonies of the second degree (Counts 8 through 14), and one count of having a weapon while under disability, a felony of the third degree (Count 15).

{¶ 3} On November 2, 2022, Gleason entered into a negotiated plea deal. At that time the state amended Counts 1 through 3 to aggravated menacing, misdemeanors of the first degree. The remaining charges were dismissed. The trial court sentenced Gleason on November 29, 2022. At sentencing, the defense reviewed the facts of the case noting that the original charge alleged that Gleason had thrown a stick of dynamite at a car full of people, specifically a mother and her six children. The defense noted that there was no evidence of an explosion, no damage to the vehicle or the occupants. Gleason maintained that he had thrown fireworks. A search warrant executed on Gleason's home revealed more fireworks, similar to the one Gleason claimed he threw. Counsel acknowledged that Gleason was drinking and that his drinking led to his poor decision that day.

{¶ 4} The state spoke briefly and requested that the court impose consecutive sentences. Shannon Burns, one of the victims, spoke. Ms. Burns told the court that Gleason threw a firework at her car and threatened to harm her and her six children. Previously, Gleason had threatened to kill Ms. Burns multiple times; commanded his dog to attack her children; and called her biracial children a racial slur.

{¶ 5} Detective Mazur from the Cleveland Police Department also addressed the court. Det. Mazur told the court that in looking at their records over the past year, Cleveland police received 301 calls for service to Gleason's residence. When Gleason called, he was verbally abusive to the dispatchers. While Gleason was awaiting trial on this case, he was charged and convicted of assaulting a 67-year-old woman. Per Det. Mazur, Gleason received a 90-day sentence for that crime. Additional witnesses addressed the court regarding Gleason's behavior including his calls to 911; his conduct with police when they were called to Gleason's home; and the steps police took to address Gleason's numerous, frivolous calls.

{¶ 6} The court proceeded to sentence Gleason to six months in jail on each charge to run consecutively for an aggregate term of 18 months. The court found that consecutive sentences were necessary to punish the offender and that consecutive sentences were not disproportionate to the seriousness of Gleason's conduct nor to the threat he posed to the public. The court also found that Gleason's history of criminal conduct demonstrated that consecutive sentences were necessary to protect the public from future crime.

{¶ 7} Gleason appeals assigning the following error for our review.

Assignment of Error

The trial court erred in ordering appellant to serve consecutive sentences.

{¶ 8} Preliminarily, we note that Gleason challenges his sentence as though he were sentenced to a term in prison. Sentencing requirements for misdemeanor

and felony offenses differ. Accordingly, Gleason’s analysis of consecutive prison term requirements, which apply to felonies, is misplaced.¹ His plea to three first-degree misdemeanors requires a review under misdemeanor sentencing guidelines.

{¶ 9} A trial court has broad discretion when imposing a misdemeanor sentence. *Cleveland v. Smerglia*, 8th Dist. Cuyahoga No. 108745, 2020-Ohio-3181, ¶ 30; R.C. 2929.22(A). Accordingly, the sentence will be upheld absent an abuse of discretion. *Id.* An abuse of discretion occurs when a trial court’s decision is “unreasonable, arbitrary or unconscionable.” *State v. Hill*, Slip Opinion No. 2022-Ohio-4544, ¶ 9 citing *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219, 450 N.E.2d 1140 (1983). Failure to consider the purposes and principles of sentencing in R.C. 2929.21 and the factors set out in R.C. 2929.22 amounts to an abuse of discretion. *Smerglia* at ¶ 31.

{¶ 10} The overriding principles of misdemeanor sentencing are “to protect the public from future crime by the offender and others and to punish the offender.” R.C. 2929.21(A); *Smerglia* at ¶ 32. The court is required to consider the effect of the offense on the victim; the need to change the defendant’s behavior; the rehabilitation of the offender; as well as restitution to the victim, the public, or both. *Id.* A sentencing court must also ensure that the sentence corresponds to and is not demeaning to the seriousness of the defendant’s conduct and its impact on the

¹ R.C. 2929.14(C)(4) is limited to the imposition of consecutive “prison terms” and is not applicable to a case for which the penalty is a definite term in jail. *State v. Alexander*, 8th Dist. Cuyahoga No. 102708, 2016-Ohio-204, ¶ 6.

victim, and further, that the sentence is consistent with sentences imposed for similar offenses committed by similar offenders. R.C. 2929.21(B).

{¶ 11} In addition, the court must also consider the following factors:

- (a) The nature and circumstances of the offense or offenses;
- (b) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender has a history of persistent criminal activity and that the offender's character and condition reveal a substantial risk that the offender will commit another offense;
- (c) Whether the circumstances regarding the offender and the offense or offenses indicate that the offender's history, character, and condition reveal a substantial risk that the offender will be a danger to others and that the offender's conduct has been characterized by a pattern of repetitive, compulsive, or aggressive behavior with heedless indifference to the consequences;
- (d) Whether the victim's youth, age, disability, or other factor made the victim particularly vulnerable to the offense or made the impact of the offense more serious;
- (e) Whether the offender is likely to commit future crimes in general, in addition to the circumstances described in divisions (B)(1)(b) and (c) of this section;
- (f) Whether the offender has an emotional, mental, or physical condition that is traceable to the offender's service in the armed forces of the United States and that was a contributing factor in the offender's commission of the offense or offenses;
- (g) The offender's military service record.

R.C. 2929.22(B)(1)(a)-(g).

{¶ 12} Before imposing a jail term, the trial court is required to first consider the appropriateness of imposing a community-control sanction or a combination of

community-control sanctions. R.C. 2929.22(C). If the court imposes a jail term, a court may only impose the longest jail term authorized on offenders

who commit the worst forms of the offense or upon offenders whose conduct and response to prior sanctions for prior offenses demonstrate that the imposition of the longest jail term is necessary to deter the offender from committing a future criminal offense.

R.C. 2929.22(C); *See State v. Scott*, 2023-Ohio-476, 208 N.E.3d 1038, ¶ 10 (2d Dist.).

{¶ 13} Finally, the trial court may impose consecutive sentences for misdemeanor offenses not to exceed 18 months. R.C. 2929.41(B)(1). In doing so, the court is not required to make findings on the record. *Id. See also State v. Alexander*, 8th Dist. Cuyahoga No. 102708, 2016-Ohio-204, ¶ 2.

{¶ 14} A trial court that imposes a sentence within the statutory limits is presumed to have considered the requirements under the law unless the defendant affirmatively establishes otherwise. *State v. Kouame*, 8th Dist. Cuyahoga No. 108559, 2020-Ohio-3118, ¶ 103. Gleason argues that it was improper for the trial court to consider the statements of witnesses on matters not directly related to the underlying offense during the sentencing hearing. We agree. A trial court may consider “any relevant oral and written statement made by the victim, the victim’s representative, the victim’s attorney, if applicable, the defendant, the defense attorney, and the prosecuting authority regarding sentencing for a misdemeanor.” R.C. 2929.22(D). In contrast, at felony sentencing “any other person may present information relevant to the imposition of sentence in the case,” with the approval of

the court. R.C. 2929.19. Accordingly, it was an error for the trial court to allow the statements of the police officers and dispatchers. Furthermore, the statements presented were to events and circumstances beyond the scope of the underlying offense and therefore irrelevant to Gleason's sentences for aggravated menacing.

{¶ 15} Although the trial court's pronouncements at sentencing focused almost entirely on Gleason's conduct during numerous incidents other than the one before it, the court also demonstrated that it had thoroughly reviewed the record. The trial court noted that Gleason's criminal history spanned ten pages and involved other offenses that harmed or placed children at risk of harm. Gleason admitted that there were two minors in the car when he was convicted of operating a vehicle while intoxicated and that a domestic violence charge with his son's mother also alleged endangering children. The court also pointed out that in her statement to probation, Ms. Burns alleged other threatening behavior by Gleason, including threatening to shoot her children and lifting his shirt to display a gun tucked in his waistband. Ms. Burns also, per the court, told probation that Gleason had threatened to blow up their house, to send someone to hurt them, and then declared war on her family. At sentencing, Ms. Burns added that Gleason had threatened to kill her in person and via text messages multiple times. She no longer felt safe in her neighborhood.

{¶ 16} Gleason's mother spoke to the court and asked for leniency. She believed that Gleason was capable of improving and she could help him. The trial court exhibited its knowledge of Gleason's record by responding that Gleason had

an extensive record and had not taken steps to rehabilitate himself, with or without his mother's help.

{¶ 17} Det. Mazur pointed out that Gleason assaulted his girlfriend's 67-year-old mother while this case was pending and that Gleason was serving a 90-day sentence at the time of sentencing for that assault. Additionally, Gleason's criminal history established that he had five felony convictions between 2006 and 2020 in both Cuyahoga and Lorain counties, including charges of felony menacing by stalking, felony domestic violence, and assault on a peace officer. He also had multiple alcohol-related minor misdemeanor disorderly conduct intoxicated citations as well as the aforementioned 2019 OVI.

{¶ 18} Gleason's history of criminal offenses along with the statements that established that he repeatedly threatened and harassed Ms. Burns and her children was sufficient to support a finding that Gleason's "response to prior sanctions for prior offenses demonstrate that the imposition of the longest jail term is necessary to deter the offender from committing a future criminal offense." R.C. 2929.22(C). Accordingly, the trial court's imposition of consecutive sentences was supported. Gleason had engaged in a pattern of harassment of Ms. Burns and her children and had a criminal history of such behavior. The court explicitly found, although it was not required to, that consecutive sentences are necessary to protect the public from future harm.

{¶ 19} In conclusion, Gleason has failed to affirmatively demonstrate that the trial court failed to consider the misdemeanor sentencing guidelines or that the trial court abused its discretion.

{¶ 20} Accordingly, the assignment of error is overruled.

{¶ 21} Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution. The defendant's conviction having been affirmed, any bail pending is terminated. Case remanded to the trial court for execution of sentence.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

EMANUELLA D. GROVES, JUDGE

EILEEN A. GALLAGHER, P.J., CONCURS;
LISA B. FORBES, J., CONCUR IN JUDGMENT ONLY