

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	
v.	:	No. 115334
DESHON BAKER, JR.,	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: August 20, 2026

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-25-699549-A

Appearances:

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Kristin M. Karkutt, Assistant Prosecuting Attorney, *for appellee*.

Cullen Sweeney, Cuyahoga County Public Defender, and Britta Barthol, Assistant Public Defender, *for appellant*.

EILEEN A. GALLAGHER, J.:

{¶ 1} Deshon Baker, Jr. (“Baker”) appeals the trial court’s imposition of consecutive sentences in his criminal case. For the reasons that follow, we affirm.

Facts and Procedural History

{¶ 2} Baker was indicted on February 24, 2025 for five counts stemming from an incident that occurred on December 28, 2024: Count 1, murder; Count 2, murder; Count 3, felonious assault; Count 4, felonious assault and Count 5, having weapons while under disability. Attached to Counts 1 through 4 were four firearm specifications each for one year, three years, 18 months and 54 months and Count 5 had two firearm specifications for 18 and 54 months.

{¶ 3} On April 22, 2025, Baker entered into a plea agreement with the State whereby he pled guilty to an amended Count 4: tampering with evidence and an amended Count 5: having weapons while under disability. All other counts and all firearm specifications were nolle.

{¶ 4} The court then immediately proceeded to sentencing. The following information was presented to the court: this incident occurred in the early morning hours of December 28, 2024, outside of a bar in Cleveland, Ohio. The victim, Simajah Harris (“Harris”) was involved in a physical altercation with an unnamed individual known to Baker. Baker and the individual had driven to the bar together. Harris had a reputation as that of a fighter. Harris and this other individual had both lost their phones and were arguing about that fact. Baker thought one of the missing phones could have been in the vehicle in which they came to the bar, so he went to check the vehicle, during the argument, twice to see if the phone was there.

{¶ 5} At the sentencing hearing, it was also established that the fight ended with Harris beating this other individual and Harris then aggressively approached

Baker who was merely in the area with several other people. Harris swung at Baker and hit him at least once. Baker then reached for the firearm he kept on his person since he had been repeatedly shot, in his home, during a robbery in 2020. Baker shot three times at Harris and two bullets struck Harris.

{¶ 6} Baker fled the scene with the firearm. The unnamed injured individual stayed on scene, attempted to provide emergency medical care to Harris and got him into a vehicle for transport to a hospital. The next day, upon learning Harris had died from the gunshot wounds, this unnamed individual went to the Cleveland Police Department Homicide Unit to give a statement about what occurred.

{¶ 7} As a result of the ensuing investigation, a warrant was issued for Baker's arrest. It took time to identify and arrest Baker because the unnamed individual did not know Baker's name. Baker was eventually arrested on February 13, 2025. The firearm used in the offense was never found.

{¶ 8} It is the prosecutor office's policy to present any cases potentially involving self-defense to its self-defense committee and that is what happened in this case. Following the committee's review, at the plea hearing, the State decided to dismiss the murder and assault charges related to this case.

{¶ 9} Baker admitted that he was on judicial release for a prior conviction of aggravated robbery at the time of this incident. He was aware that a condition of his release was that he was not permitted to carry firearms.

{¶ 10} Prior to sentencing Baker and after hearing from the State, Baker's counsel and Baker himself, the trial court considered all the sentencing factors of

R.C. 2929.12 and the sentencing principles of R.C. 2929.11. The trial court then sentenced Baker to a 24-month prison sentence for amended Counts 4 and 5, to be served consecutively for a total of 48 months imprisonment.

{¶ 11} In support of the consecutive sentences the trial court made the following findings:

The Court finds in support of the imposition of consecutive sentences here which I'm going to impose. Consecutive sentences are necessary to punish the offender and to protect the public from future crime, and is not disproportionate to the seriousness of the defendant's conduct and the danger posed by the defendant, and the offense was committed while he was on Community Control.

They also are part of a course of conduct carrying a gun and then disposing of it or in a fashion as described, tampering, and that a single prison term would not adequately protect the community or reflect the seriousness of his conduct.

In addition, his criminal history demonstrates that consecutive sentences are necessary to protect the public.

It's shocking to the conscience and to the public if someone comes out on probation, is given this great, extraordinary opportunity . . . that some judge would let someone out on an aggravated robbery with a gun and give him another chance to hit the streets; that the defendant is shortly thereafter found with a gun and also tampering with evidence afterwards.

{¶ 12} Baker now appeals the consecutive sentences raising the following assignment of error for our review:

The trial court's consecutive sentencing of Deshon Baker was in error because the sentencing findings were clearly and convincingly not supported by the record.

Law and Argument

{¶ 13} Though not acknowledged by any party, we note that Baker did not object to the imposition of consecutive sentences in the trial court and has, therefore, forfeited all but plain error review. *State v. Saxon*, 2023-Ohio-306, ¶ 15 (8th Dist.), citing *State v. Rogers*, 2015-Ohio-2459, ¶ 3. Crim.R. 52(B) provides that “[p]lain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the court.” Under Crim.R. 52(B), to find plain error three requirements must be met: “there was an obvious defect in the proceedings, the defect affected substantial rights, and the outcome of the trial would clearly have been different absent the error.” *State v. Parker*, 2026-Ohio-346, ¶ 42 (8th Dist.), citing *State v. Barnes*, 2002-Ohio-68, ¶ 20. “Plain error is reserved for exceptional circumstances and only to prevent a manifest miscarriage of justice.” *Id.*

In Ohio, there is a presumption that a defendant’s multiple prison sentences will be served concurrently, *see* R.C. 2929.41(A), unless certain circumstances apply under R.C. 2929.14(C)(1)-(3) (factors not applicable to this case) or the trial court makes findings supporting the imposition of consecutive sentences under R.C. 2929.14(C)(4).

State v. Keith, 2024-Ohio-1591, ¶ 7 (8th Dist.).

{¶ 14} Pursuant to R.C. 2929.14(C)(4), a trial court may impose consecutive sentences only if it finds that the consecutive sentences are (1) necessary to protect the public from future crime or to punish the offender; (2) 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 (3) that one of the following applies:

(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 crimes by the offender.

Saxon at ¶ 16, citing R.C. 2929.14(C)(4).

{¶ 15} We review felony sentences under the standard set forth in R.C. 2953.08(G)(2). *State v. Polizzi*, 2026-Ohio-2588, ¶ 12. R.C. 2953.08(G)(2) provides that when reviewing felony sentences, a court may overturn the imposition of consecutive sentences only where the court “clearly and convincingly” finds that (1) “the record does not support the sentencing court’s findings under R.C. 2929.14(C)(4),” or (2) “the sentence is otherwise contrary to law.” *State v. Jones*, 2024-Ohio-1083, ¶ 12. Clear and convincing is “a firm belief that the record does not support the trial court’s findings—more than a preponderance but less than beyond a reasonable doubt.” *Polizzi* at ¶ 18.

{¶ 16} “This review is deferential[.]” *Id.* at ¶ 12. “Appellate courts generally defer to trial courts on sentencing decisions.” *Id.* at ¶ 17. “The appellate court cannot reweigh the evidence or substitute its judgment based on subjective disagreement with the trial court.” *Id.* at ¶ 25. “The trial court is ‘clearly in the better position to

judge [a] defendant's dangerousness and to ascertain the effect of the crimes on the victims.” *Id.*, citing *State v. Jones*, 2001-Ohio-1341, ¶ 34.

{¶ 17} “R.C. 2953.08(F) requires an appellate court to review the entire trial-court record, including any oral or written statements made to or by the trial court at the sentencing hearing, and any presentence, psychiatric, or other investigative report that was submitted to the court in writing before the sentence was imposed. R.C. 2953.08(F)(1) through (4).” *Jones*, 2024-Ohio-1083, at ¶ 12.

{¶ 18} When imposing consecutive sentences, a trial court is required to make the findings mandated by R.C. 2929.14(C)(4) at the sentencing hearing and it must incorporate its findings into its sentencing entry. *State v. Bonnell*, 2014-Ohio-3177, ¶ 37. That being said, the trial court is not obligated to state reasons to support its findings, “nor is it required to give a talismanic incantation of the words of the statute, provided that the necessary findings can be found in the record and are incorporated into the sentencing entry.” *Id.*

{¶ 19} Baker argues that the trial court's sentence was in error pursuant to R.C. 2953.08(G)(2) because the record does not support the consecutive sentences. We disagree.

{¶ 20} After reviewing the sentencing hearing in this case, we find the trial court made the findings required by R.C. 2929.14(C)(4) and these findings are supported by the record. The trial court specifically found that the consecutive sentences were “necessary to punish the offender and to protect the public from future crime” and were “not disproportionate to the seriousness of the defendant's

conduct and the danger posed by the defendant” pursuant to the first two requirements of R.C. 2929.14(C)(4).

{¶ 21} These findings are supported by the record. The trial court clearly found that Baker’s behavior of carrying a firearm to a bar while on community control was “shocking to the conscience” and that Baker had recidivated by knowingly violating the conditions of his community control. Baker then knowingly disposed of this firearm, the use of which resulted in someone’s death, tampering with evidence in a possible homicide case. This is sufficient evidence in the record to support the trial court’s finding that the public needed to be protected from Baker and that it was necessary to punish Baker for committing additional crimes while on community control. This behavior also supports the trial court’s finding that the consecutive sentences were not disproportionate to the seriousness of Baker’s conduct or the danger he posed to the public.

{¶ 22} Lastly, the trial court found and the record supports that “the offense was committed while [Baker] was on community control.” This satisfies R.C. 2929.14(C)(4)(a). All of these required findings were incorporated into the sentencing journal entry.

{¶ 23} As such, all of the findings required for the imposition of consecutive sentences under R.C. 2929.14(C)(4) were made and are supported by the record. We find no plain error in Baker’s sentence.

{¶ 24} Accordingly, Baker’s sole assignment of error is overruled.

{¶ 25} 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 convictions having been affirmed, any bail pending appeal is terminated.

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

EILEEN A. GALLAGHER, JUDGE

MARY J. BOYLE, P.J., and
ANITA LASTER MAYS, J., CONCUR