

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE OF OHIO,	:	
	:	
Plaintiff-Appellee,	:	No. 115976
	:	
v.	:	
	:	
DWAYNE THOMPSON,	:	
	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: September 3, 2026

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-22-669905-A

Appearances:

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

Patrick S. Lavelle, *for appellant*.

ANITA LASTER MAYS, J.:

{¶ 1} Defendant-appellant Dwayne Thompson (“Thompson”) appeals his guilty plea and the resulting 36-month prison sentence imposed by the trial court for one count of failure to verify his address in violation of R.C. 2950.06(F), a third-degree felony. After a thorough review of the record and applicable law, we affirm.

I. Facts and Procedural History

{¶ 2} On June 9, 2022, the Cuyahoga County Grand Jury returned a one-count indictment charging Thompson with failure to verify a current residence address in violation of R.C. 2950.06(F), a third-degree felony. The indictment alleged that, on or about February 9, 2022, Thompson failed to verify his current residence, school, institution of higher education, or place of employment address as required by his registration obligations. The indictment further alleged that the underlying basis for the verification requirement was Thompson's April 7, 2009 conviction in Cuyahoga C.P. No. CR-08-506910-A for attempted rape in violation of R.C. 2923.02 and 2907.02.

{¶ 3} The record reflects that Thompson's reporting obligations arose from a March 16, 2009 plea of guilty to gross sexual imposition and four counts of attempted rape, for which Thompson was sentenced to eight years in prison and was required to register as a sexually oriented offender. Thompson registered his address with the Cuyahoga County Sheriff's Office on January 22, 2016, and was required to complete periodic address verification by January 22, 2022. When Thompson failed to report, a letter was sent to his last known address advising him to report by February 8, 2022, or charges would be filed. As of April 4, 2022, Thompson had not completed his address verification, and the present charge was filed.

{¶ 4} The trial court issued a summons on June 13, 2022, by certified mail addressed to Thompson at 13820 Martin Drive, Cleveland, Ohio. The summons was

delivered by the United States Postal Service (“USPS”) on June 15, 2022. Thompson failed to appear for the scheduled arraignment on June 30, 2022, and the trial court ordered a capias to issue for his arrest.

{¶ 5} Thompson was taken into custody, and then he appeared for arraignment. The trial court declared Thompson indigent, assigned the public defender as counsel, and accepted Thompson’s plea of not guilty. The trial court set bond in the amount of \$5,000 personal bond. Thompson was released the same day.

{¶ 6} The matter proceeded through several pretrials at Thompson’s request for ongoing discovery. Defense counsel requested, and the trial court ordered, that Thompson be referred to the Court Psychiatric Clinic for an evaluation to determine eligibility for transfer to the Mental Health Developmental Disabilities Court. The Court Psychiatric Clinic found Thompson not eligible for transfer.

{¶ 7} On November 3, 2025, Thompson appeared before the trial court for a change-of-plea hearing. At the outset of the hearing, the trial court confirmed with defense counsel that competency was not at issue. Tr. 3. Defense counsel further confirmed that Thompson’s prior registration obligation was a lifetime requirement because the underlying offense was a pre-Adam Walsh Act conviction.¹ Tr. 5.

{¶ 8} The trial court asked Thompson whether he understood that he was pleading guilty to the indictment, and Thompson responded that he had questions.

¹ Pre-Adam Walsh Act law applies to offenders who committed their sex offenses before January 1, 2008. These individuals retain their classifications, sentencing structures, and registration notifications of the old system, known as Megan’s Law.

Tr. 4. After confirming that Thompson understood that pleading guilty constituted a complete admission of guilt, the trial court inquired about Thompson's citizenship, educational background, employment status, and clear-headedness. Thompson responded that he was a United States citizen, had graduated from high school and attended Cleveland State University for culinary arts, and was clear-headed and not under the influence of any substance. Tr. 4-5. Thompson stated that he was previously employed as a chef at the Jones Day law firm and was currently doing construction work. Tr. 5. Thompson confirmed that he was not on probation or postrelease control for any other matter. Tr. 5.

{¶ 9} The trial court then advised Thompson of the constitutional rights he was waiving by entering a plea of guilty. The trial court advised Thompson of his right to a jury trial, his right to confront and cross-examine the State's witnesses, his right to compulsory process for obtaining witnesses on his behalf, his right against self-incrimination, and the State's burden to prove the charges against him beyond a reasonable doubt. Tr. 6. Thompson confirmed that he understood each of these rights and that he understood he was giving them up by entering his plea. Tr. 6-7.

{¶ 10} The trial court then explained the nature of the charge and the potential penalties. The trial court stated: "Failure to comply is a third-degree felony. It's punishable by a potential prison term of between 9 and 36 months and a fine in the amount of up to \$10,000. Do you understand those potential penalties?" Thompson responded, "Yes, sir." Tr. 7. The trial court further advised Thompson that it could order him to pay court costs and supervisory fees associated

with probation and that no promises had been made regarding the sentence to be imposed. Tr. 7.

{¶ 11} Regarding postrelease control, the trial court advised Thompson as follows: “Upon your release you may be placed on post-release control for a period of up to two years. If you violate your post-release control, you could face additional prison sanctions. Do you understand that?” Thompson responded, “Yes, sir.” Tr. 7-8.

{¶ 12} The trial court then accepted Thompson’s plea of guilty to failure to comply, a felony of the third degree, and stated on the record that it was satisfied that Thompson entered into the plea agreement in a knowing, intelligent, and voluntary fashion. Tr. 8. Both the State and defense counsel confirmed on the record that they were satisfied that the trial court complied with Crim.R. 11. Tr. 8. The trial court referred Thompson for a presentence investigation and set the matter for sentencing.

{¶ 13} At sentencing, Thompson appeared with counsel for sentencing. Tr. 10. The trial court confirmed that it had received and reviewed the presentence-investigation report, and defense counsel confirmed that she had reviewed the report and found it to be complete and accurate. Tr. 10. The State noted that Thompson had a lengthy criminal history, with over 20 cycles reflected in his LEADS report, and emphasized the length of time that had passed since the failure to verify in 2022 without Thompson having corrected the violation. Tr. 10-11.

{¶ 14} Defense counsel addressed the trial court and acknowledged Thompson's criminal history but noted that there had been no convictions on his record since 2022. Tr. 11. Defense counsel requested a community-control sanction with the highest risk group D supervision. Tr. 12. Defense counsel also informed the trial court that Thompson had tested positive for cocaine and acknowledged his substance-abuse issue and requested a TASC assessment and treatment recommendations.² Tr. 12.

{¶ 15} Thompson then addressed the trial court. Thompson stated that he was 61 years old with a six-year-old daughter and that his mother, sister, and brother had all passed away. Tr. 12. Thompson stated that his daughter was the only family he had left and that he was responsible for raising her. Tr. 12-13. Thompson explained the difficulties he faced that morning in finding childcare due to school and daycare closures, which caused his late arrival. Tr. 13.

{¶ 16} The trial court stated that it had considered the seriousness and recidivism factors and the purposes and principles of the sentencing statutes. Tr. 13. The trial court emphasized that Thompson had three prior sex offenses, including two prior rape convictions and a gross-sexual-imposition conviction and that the reporting requirements for sex offenders exist for important reasons. Tr. 13-14. The trial court found that Thompson, with three prior sexually oriented offenses, was at

² TASC stands for Treatment Alternatives to Street Crimes. Under TASC supervision, community-based treatment is made available to drug dependent individuals.

the “top of the chart” for those reasons and that the court could not overlook his lack of compliance. Tr. 14.

{¶ 17} The trial court imposed a maximum sentence of 36 months in prison on Count 1, with credit for three days served. Tr. 14. The trial court found Thompson to be indigent and waived court costs. Tr. 14. Regarding postrelease control, the trial court advised Thompson: “Upon your release, you will be subject to up to two years of postrelease control, which if you violate will subject you to additional prison sanctions.” Tr. 14. The trial court further found that prison was consistent with the purposes of R.C. 2929.11 and that it had considered all required factors of law.

{¶ 18} On December 8, 2025, Thompson filed a motion to reconsider sentence, which the trial court denied the same day. On December 10, 2025, Thompson filed a motion to appoint appellate counsel that the trial court denied a week later.

{¶ 19} Thereafter, Thompson filed a timely notice of appeal. Thompson assigns two errors for our review:

1. The appellant’s guilty plea was not knowing and voluntary because the trial court, prior to taking the plea, failed to advise appellant that he was subject to “bad time” under O.R.C. 2943.032; and
2. The lower court erred when it sentenced appellant without complying with 2929.19(B)(3) which required the court to notify appellant that he is subject to the post-conviction control provisions of O.R.C. 2967.28.

II. Guilty Plea

A. Standard of Review

{¶ 20} To determine whether a guilty plea was entered knowingly, intelligently, and voluntarily, an appellate court conducts a de novo review of the record and examines the totality of the circumstances to determine whether the trial court adequately advised the defendant of their constitutional and nonconstitutional rights set forth in Crim.R. 11(C). *State v. Burgin*, 2026-Ohio-2826 (8th Dist.); *State v. Spock*, 2014-Ohio-606, ¶ 7, 9 (8th Dist.).

B. Law and Analysis

{¶ 21} In Thompson's first assignment of error, he argues that his guilty plea was not knowing and voluntary because the trial court did not advise him, before accepting the plea, of the sanctions described in R.C. 2943.032. Although he frames the argument in terms of "bad time," the statute he invokes addresses the consequences of violating postrelease control. R.C. 2943.032 provides that, prior to accepting a plea of guilty to a felony indictment, the court shall inform the defendant personally that if the court imposes a prison term and the offender violates the conditions of a postrelease-control sanction imposed by the parole board upon completion of the stated prison term, the parole board may impose a residential sanction that includes a new prison term of up to nine months, subject to a maximum cumulative prison term for all violations that does not exceed one-half of the definite prison term originally imposed.

{¶ 22} R.C. 2943.032(A) requires the trial court to “inform the defendant personally” of the penalties that could be imposed if the defendant violates the conditions of their postrelease-control sanction. *State v. Pruitt*, 2025-Ohio-1557, ¶ 13 (8th Dist.). “[Postrelease control] is one of the required advisements pursuant to Crim.R. 11, because it constitutes a portion of the maximum penalty involved in an offense for which a prison term will be imposed.” *State v. Bankston*, 2024-Ohio-3017, ¶ 10 (8th Dist.), citing *State v. Shields*, 2023-Ohio-1971, ¶ 4-11 (8th Dist.), citing *State v. Fleming*, 2006-Ohio-6773, ¶ 7 (8th Dist.). “Without an adequate explanation of [postrelease control] from the trial court, a defendant cannot fully understand the consequences of his plea as required by Crim.R. 11(C).” *Id.* Due process requires that a defendant’s plea be made knowingly, intelligently, and voluntarily; otherwise, the plea is invalid. *State v. Brinkman*, 2021-Ohio-2473, ¶ 10.

{¶ 23} At the change-of-plea hearing, the trial court first advised Thompson of the constitutional rights he was waiving, including the right to a jury trial, the right to confront and cross-examine the State’s witnesses, the right to compulsory process, the right not to testify and the corresponding prohibition on the use of his silence against him, and the State’s burden to prove the charge beyond a reasonable doubt. Tr. 6. Thompson stated that he understood each of those rights and that he understood he was giving them up by entering the plea. Tr. 7. The trial court then advised Thompson that failure to verify was a third-degree felony punishable by a prison term of between 9 and 36 months and a fine of up to \$10,000, and Thompson stated that he understood those potential penalties. Tr. 7.

{¶ 24} As to postrelease control, the trial court stated: “Upon your release you may be placed on post-release control for a period of up to two years. If you violate your post-release control, you could face additional prison sanctions. Do you understand that?” Tr. 7-8. Thompson responded, “Yes, sir.” Tr. 8. The trial court then accepted Thompson’s guilty plea to the single count of the indictment, found that the plea was entered in a knowing, intelligent, and voluntary fashion, and confirmed with both counsel that the court had complied with Crim.R. 11. Tr. 8.

{¶ 25} The record reflects that the trial court personally informed Thompson that he could be placed on postrelease control upon his release and that a violation of postrelease control could result in additional prison sanctions. Tr. 7-8. Thompson nevertheless contends that because he did not enter into a written plea agreement in which he was informed in writing of the provisions of R.C. 2943.032, his plea is invalid. As in *Pruitt*, that argument is unpersuasive. Thompson cites no authority setting out any such requirement for a written plea agreement, and he does not demonstrate that his plea was not made knowingly, intelligently, and voluntarily in accordance with Crim.R. 11. See *Pruitt*, 2025-Ohio-1557, at ¶ 15-16 (8th Dist.).

{¶ 26} “Ohio’s Crim.R. 11 outlines the procedures that trial courts are to follow when accepting pleas.” *State v. Dangler*, 2020-Ohio-2765, ¶ 11. The rule “ensures an adequate record on review by requiring the trial court to personally inform the defendant of his rights and the consequences of his plea and determine if the plea is understandingly and voluntarily made.” *Id.*, quoting *State v. Stone*, 43 Ohio St.2d 163, 168 (1975). When a criminal defendant seeks to have his conviction

reversed on appeal, the traditional rule is that he must establish that an error occurred in the trial court proceedings and that he was prejudiced by that error. *Id.* at ¶ 13.

{¶ 27} There are two exceptions to that prejudice requirement. When a trial court fails to explain the constitutional rights that a defendant waives by pleading guilty, the plea is presumed to have been entered involuntarily and unknowingly, and no showing of prejudice is required. *Dangler* at ¶ 14. And a trial court's complete failure to comply with a portion of Crim.R. 11(C) eliminates the defendant's burden to show prejudice. *Id.* at ¶ 15. Aside from these two exceptions, "a defendant is not entitled to have his plea vacated unless he demonstrates he was prejudiced by a failure of the trial court to comply with the provisions of Crim.R. 11(C)," and the test for prejudice is "whether the plea would have otherwise been made." *Id.* at ¶ 16, quoting *State v. Nero*, 56 Ohio St.3d 106, 108 (1990).

{¶ 28} Neither exception applies here. Thompson does not argue that the trial court failed to advise him of any of the constitutional rights enumerated in Crim.R. 11(C)(2)(c), and the record confirms that the trial court advised him of each of those rights and determined that he understood them. Tr. 6-7. Nor did the trial court completely fail to address postrelease control. Unlike a colloquy in which the court makes no mention of postrelease control at all, the trial court here told Thompson that he could be placed on postrelease control for up to two years and that a violation could subject him to additional prison sanctions, and Thompson stated that he understood. Tr. 7-8. Thompson's complaint is that the advisement

was not detailed enough, not that it was omitted. That is a nonconstitutional matter, and Thompson was therefore required to affirmatively demonstrate prejudice. *Dangler* at ¶ 14, 16.

{¶ 29} Thompson has made no such showing. He does not assert anywhere in his brief that he would not have entered his guilty plea had the trial court described the nine-month and one-half-of-the-stated-term limitations in the language of R.C. 2943.032(A), and nothing in the record suggests that the plea would otherwise not have been made. *Dangler* at ¶ 16. The transcript reflects instead that Thompson was given the opportunity to raise his questions before the colloquy proceeded, that he confirmed he was clear-headed, that he confirmed he understood he was pleading guilty to the indictment and that the plea was a complete admission of guilt, and that he repeatedly stated he understood the rights and the penalties the trial court described. Tr. 4-8. The trial court also confirmed that no promise had been made as to the sentence it would impose. Tr. 7. Examining the totality of these circumstances, we find that Thompson’s plea was entered knowingly, intelligently, and voluntarily.

{¶ 30} Further, Thompson’s argument that the trial court failed to advise him that he was subject to “bad time” under R.C. 2943.032 is rendered moot. This court has found that an appeal asserting a challenge to the “bad time” advisement provision of R.C. 2943.032 is rendered moot by the Supreme Court of Ohio’s holding in *State ex rel. Bray v. Russell*, 2000-Ohio-116, 2000-Ohio-117, and 2000-Ohio-119, which found R.C. 2967.11, known as the “Bad Time” statute, unconstitutional, as

referenced in prior versions of R.C. 2943.032. *Bankston*, 2024-Ohio-3017, at ¶ 13 (8th Dist.), citing *Shields*, 2023-Ohio-1971, at ¶ 4-11 (8th Dist.); *Pruitt*, 2025-Ohio-1557, at ¶ 22 (8th Dist.).

{¶ 31} We find that Thompson’s plea was made knowingly, intelligently, and voluntarily. Thompson’s first assignment of error is overruled.

III. R.C. 2929.19(B)(3) Compliance

A. Standard of Review

{¶ 32} An appellate court may increase, reduce, or otherwise modify a sentence if it is “contrary to law” under R.C. 2953.08(G)(2)(b). *State v. Jones*, 2020-Ohio-6729, ¶ 34. Because Thompson did not object at sentencing, he must demonstrate plain error. *See State v. Rudolph*, 2023-Ohio-1040, ¶ 29 (8th Dist.). Under Crim.R. 52(B), plain error requires an obvious defect that affected substantial rights. *Id.* We notice plain error with the utmost caution and under exceptional circumstances, to prevent a manifest miscarriage of justice. *State v. Rogers*, 2015-Ohio-2459, ¶ 23.

B. Law and Analysis

{¶ 33} In Thompson’s second assignment of error, he argues that the trial court erred when it sentenced him because it did not comply with R.C. 2929.19(B)(3), which he contends required the trial court to notify him that he was subject to the postrelease-control provisions of R.C. 2967.28. Thompson maintains that the trial court made only a passing reference to postrelease control

at the sentencing hearing and that this reference did not substantially comply with the statute.

{¶ 34} R.C. 2929.19(B)(3) provides that the court shall include in the offender's sentence a statement that the offender is a tier III sex offender/child-victim offender and shall comply with the requirements of R.C. 2950.03, if any of seven enumerated circumstances apply. Those circumstances are that the offender is being sentenced for a violent sex offense or designated homicide, assault, or kidnapping offense committed on or after January 1, 1997, and the offender is adjudicated a sexually violent predator in relation to that offense; that the offender is being sentenced for a sexually oriented offense committed on or after January 1, 1997, and the offender is a tier III sex offender/child-victim offender relative to that offense; that the offender is being sentenced on or after July 31, 2003, for a child-victim oriented offense and is a tier III sex offender/child-victim offender relative to that offense; that the offender is being sentenced under R.C. 2971.03 for a violation of R.C. 2907.02(A)(1)(b) committed on or after January 2, 2007; that the offender is sentenced to a term of life without parole under R.C. 2907.02(B); that the offender is being sentenced for attempted rape committed on or after January 2, 2007, with a specification of the type described in R.C. 2941.1418, 2941.1419, or 2941.1420; or that the offender is being sentenced under R.C. 2971.03(B)(3)(a), (b), (c), or (d) for an offense described in those divisions committed on or after January 1, 2008. R.C. 2929.19(B)(3). *State v. Pruitt*, 2025-Ohio-1557, ¶ 25 (8th Dist.).

{¶ 35} By its plain terms, R.C. 2929.19(B)(3) governs the tier III sex offender/child-victim offender classification statements and the accompanying R.C. 2950.03 notification duties. It is not the provision that governs postrelease-control notifications at sentencing. Where a defendant is not sentenced for a violent sex offense or designated homicide, assault, or kidnapping offense, or for any of the other offenses listed in that division, R.C. 2929.19(B)(3) does not apply. *Pruitt* at ¶ 26.

{¶ 36} The same is true here. Thompson was indicted on a single count of failure to verify current residence address, a third-degree felony, in violation of R.C. 2950.06(F). He pleaded guilty to that count as charged in the indictment. Tr. 8. He was sentenced on that count and that count alone. Tr. 14. The trial court did not classify Thompson as a tier III sex offender/child-victim offender at sentencing, and nothing in this record reflects such an adjudication. The only reference to Thompson's registration status at the plea hearing was defense counsel's statement that, because Thompson's underlying classification was pre-Adam Walsh, his reporting requirement was a lifetime requirement. Tr. 5. Thompson therefore was not sentenced for any offense listed in R.C. 2929.19(B)(3), and that division does not apply to his sentence. *Pruitt* at ¶ 26.

{¶ 37} Thompson's reliance on *State v. Akins*, 1999 Ohio App. LEXIS 2564 (8th Dist. June 3, 1999), is likewise misplaced, because that decision does not establish that R.C. 2929.19(B)(3) applies to an offender who was not sentenced for any offense listed in that division. The remaining authorities Thompson cites are

unreported decisions from the late 1990s that do not address the version of the statute he invokes, and he filed no reply brief addressing the State's response.

{¶ 38} Although Thompson frames his second assignment of error in terms of R.C. 2929.19(B)(3), the substance of his argument concerns postrelease-control notification, which is governed by R.C. 2929.19(B)(2)(e) and (f). To the extent Thompson contends that the trial court failed to advise him of postrelease control at the sentencing hearing, his contention is not well taken. At the sentencing hearing, after considering the seriousness and recidivism factors and the purposes and principles of sentencing, the trial court imposed a 36-month prison term with credit for time served, found Thompson indigent, and waived his court costs. Tr. 13-14. The trial court then stated: "Upon your release, you will be subject to up to two years of post-release control, which if you violate will subject you to additional prison sanctions." Tr. 14. The trial court thus advised Thompson at the sentencing hearing of the duration of the supervision he faced upon his release from prison and of the consequence of violating it, as contemplated by R.C. 2929.19(B)(2)(e) and (f). That advisement was consistent with the notification the trial court gave Thompson at the plea hearing, where it told him that upon his release he could be placed on postrelease control for a period of up to two years and that if he violated postrelease control he could face additional prison sanctions, and Thompson confirmed that he understood. Tr. 7-8.

{¶ 39} The record accordingly shows that the trial court made the required pronouncements at sentencing. *Pruitt* at ¶ 28. Thompson has not identified any

deficiency in the sentencing journal entry, and he cites nothing in the record beyond the sentencing transcript quoted above. On this record, we cannot clearly and convincingly find that Thompson's sentence is contrary to law, and Thompson has demonstrated no obvious defect affecting his substantial rights.

{¶ 40} We find that the trial court did not err when it sentenced Thompson, because R.C. 2929.19(B)(3) does not apply to his sentence and because the trial court notified him at the sentencing hearing that he was subject to a period of supervision upon his release from prison and to additional prison sanctions if he violated it. *Pruitt*, at ¶ 26, 28.

{¶ 41} Thompson's second assignment of error is overruled.

{¶ 42} 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 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.

ANITA LASTER MAYS, JUDGE

SEAN C. GALLAGHER, P.J., and
EILEEN A. GALLAGHER, J., CONCUR