

COURT OF APPEALS OF OHIO
EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE OF OHIO,	:	
	:	
Plaintiff-Appellee,	:	No. 116099
	:	
v.	:	
	:	
TIMOTHY HESS,	:	
	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED
RELEASED AND JOURNALIZED: September 24, 2026

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-24-696230-A

Appearances:

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

Susan J. Moran, *for appellant*.

LISA B. FORBES, J.:

{¶ 1} Timothy Hess (“Hess”) appeals from his prison sentence for strangulation. Following a thorough review of the record and the law, we affirm.

I. Procedural History

{¶ 2} Pertinent to this appeal are two cases in which Hess was convicted for criminal offenses — Cuyahoga C.P. No. CR-24-696230-A (“Cuyahoga County Case”) and Lorain C.P. No. 23-CR-109959 (“Lorain County Case”). This opinion arises from Hess’s direct appeal in the Cuyahoga County Case.

{¶ 3} In the Cuyahoga County Case, at a plea hearing held on December 10, 2025, Hess pled guilty to strangulation, a third-degree felony, in violation of R.C. 2903.18(B)(2). Hess also pled guilty to misdemeanor assault, for which he was sentenced to time served.¹

{¶ 4} The case proceeded immediately to a sentencing hearing. At that hearing, the trial court acknowledged that Hess was serving a prison sentence arising from the Lorain County Case. The court stated:

[W]hatever sentence he receives [for strangulation] will be run consecutive to the nine month sentence he’s serving for the failure to comply. Now, it can be run concurrent with the three year underlying sentence [for felonious assault in the Lorain County Case] but not concurrent with the nine month failure to comply.

{¶ 5} The trial court imposed on Hess a one-year prison term for strangulation, which it ordered to run consecutively to his three-year-and-nine-month aggregate prison term imposed in the Lorain County Case. Put another way, the trial court ordered Hess’s strangulation sentence to run consecutively to both

¹ On appeal, Hess challenges neither his conviction nor his sentence for misdemeanor assault in the Cuyahoga County Case.

Hess's failure-to-comply sentence and his felonious-assault sentence from the Lorain County Case.

{¶ 6} In support of its imposition of consecutive sentences, the trial court made the following determinations under R.C. 2929.14(C)(4): “[C]onsecutive sentencing is necessary . . . to punish the offender and protect the public from future crime and is not disproportionate to the seriousness of the conduct and the danger posed by the defendant.” The court also found

that one or more of these offenses was committed — in fact both of them were committed while the offender was awaiting trial, on community control or post release control. I will additionally make a . . . finding that the offender's criminal history demonstrates that consecutive sentences are necessary to protect the public.

{¶ 7} On January 13, 2026, the trial court issued a journal entry setting forth, pertinent here, the offenses to which Hess had pled guilty, the sentence imposed for each offense, and its findings related to consecutive sentencing. Concerning Hess's consecutive sentences, the journal entry provided:

The court imposes prison terms consecutively finding that consecutive service of the prison term is necessary to protect the public from future crime or to punish defendant; that the consecutive sentences are not disproportionate to the seriousness of the defendant's conduct and to the danger defendant poses to the public; and that, the defendant committed one or more of the multiple offenses while the defendant was awaiting trial or sentencing or was under a community control or was under post-release control for a prior offense, or defendant's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by defendant.

{¶ 8} Hess appealed, raising the following assignment of error:

Appellant's sentence is contrary to law because the record does not support the imposition of consecutive sentences.

II. Law and Analysis

{¶ 9} With his sole assignment of error, Hess asserts that the trial court erred in running his prison term for strangulation consecutively to his three-year-and-nine-month aggregate prison term in the Lorain County Case. We disagree.

{¶ 10} R.C. 2953.08(G)(2) addresses appellate review of sentencing, providing that the court of appeals “shall review the record, including the findings underlying the sentence . . . given by the trial court.” This court may “increase, reduce, or otherwise modify a sentence . . . [or] vacate the sentence and remand the matter to the sentencing court for resentencing” if it “clearly and convincingly finds” that the sentence is otherwise contrary to law. R.C. 2953.08(G)(2)(b). The Ohio Supreme Court recently explained that appellate courts “generally defer to trial courts on sentencing decisions” and that R.C. 2953.08(G) does not “require consideration of the aggregate prison term.” *State v. Polizzi*, 2026-Ohio-2588, ¶ 17, 26.

{¶ 11} A defendant’s multiple prison sentences are presumed to be served concurrently unless the trial court makes findings required to support consecutive sentences under R.C. 2929.14(C)(4). R.C. 2929.41(A); *State v. Jones*, 2024-Ohio-1083, ¶ 11. “[T]o impose consecutive terms of imprisonment, a trial court is required to make the findings mandated by R.C. 2929.14(C)(4) at the sentencing hearing and incorporate its findings into its sentencing entry.” *State v. Bonnell*, 2014-Ohio-3177, ¶ 37. Pursuant to R.C. 2929.14(C)(4), the court must find that consecutive sentences are “necessary to protect the public from future crime or to punish the offender”;

“not disproportionate to the seriousness of the offender’s conduct and to the danger the offender poses to the public”; and at least one of the following three factors:

(a) The offender committed one or more of the multiple offenses while the offender was awaiting trial or sentencing, was under a sanction . . . 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.

{¶ 12} The trial court was required to run Hess’s strangulation sentence consecutively to his sentence for failure to comply in the Lorain County Case. R.C. 2929.14(C)(3) provides:

If a prison term is imposed for . . . a felony violation of division (B) of section 2921.331 of the Revised Code, the offender shall serve that prison term consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

{¶ 13} The online docket for the Lorain County Case reveals that Hess was convicted for a third-degree felony violation under R.C. 2921.331(B).² “An appellate court is permitted to take judicial notice of publicly accessible online court dockets.” *Hrina v. KLS Martin, L.P.*, 2026-Ohio-1276 ¶ 4, fn. 1 (8th Dist.), quoting *State v. Wagner*, 2023-Ohio-1215, ¶ 64 (8th Dist.). Because Hess was convicted in the

² R.C. 2921.331(B) provides, “No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person’s motor vehicle to a stop.”

Lorain County Case for felony failure to comply under of R.C. 2921.331(B), the trial court in the Cuyahoga County Case was required to run Hess's prison term for strangulation consecutively to his failure-to-comply sentence.

{¶ 14} We turn next to the trial court's decision to run Hess's strangulation sentence consecutively to Hess's sentence for felonious assault in the Lorain County Case, which the trial court imposed at its discretion, requiring findings under R.C. 2929.14(C)(4). In his appellate brief, Hess concedes that "[t]he court did make the findings cited in R.C. 2929.14(C)(4)," which our review of the transcript confirms. The court included these findings in its January 13, 2026 journal entry.

{¶ 15} Having found, as Hess concedes, that the trial court made the required findings to support running his strangulation sentence consecutively to his sentence for felonious assault in the Lorain County Case, we turn to Hess's assertion that those findings were clearly and convincingly not supported by the record.

{¶ 16} Hess argues that his consecutive sentence is "disproportionate to the facts of the case" because no information in the record indicates that the strangulation victim in this matter suffered "serious physical harm." But *causation* of serious physical harm is not an element of third-degree felony strangulation, the offense for which Hess was convicted. Concerning that offense, R.C. 2903.18(B)(2) provides that no person shall knowingly "[c]*reate a substantial risk* of serious physical harm to another by means of strangulation." (Emphasis added.) Hess admitted that he caused a substantial risk of serious physical harm by pleading guilty to third-degree felony strangulation after confirming he understood that

doing so amounted to “a full admission of guilt.” Moreover, the record indicates that Hess did create a substantial risk of serious physical harm to the victim. According to the State, the victim reported to law enforcement that Hess “strangled her for about five seconds with both hands,” causing her to lose consciousness.

{¶ 17} We are not persuaded by Hess’s argument that the court erred in imposing a consecutive sentence upon him because he did not commit the most serious form of strangulation. A trial court may impose a maximum or consecutive sentence without finding that a defendant committed the worst form of the offense for which he or she is being sentenced. *State v. York*, 2021-Ohio-1591, ¶ 124, 127 (8th Dist.), discussing *State v. Foster*, 2006-Ohio-856. Also, as the Ohio Supreme Court recently explained in *Polizzi*, R.C. 2929.14(C)(4)’s reference to proportionality is distinct from consistency. Consistency relates “to sentences given others while [proportionality] relates to the sentences given to the offender, i.e., whether the punishment fits the crime, not how it compares with the punishment of others.” *Polizzi*, 2026-Ohio-2588, at ¶ 16. Notably, in sentencing Hess to a one-year prison term for strangulation, the trial court did not impose the most serious sentence for which Hess was eligible. See R.C. 2929.14(A)(3)(b) (setting forth a range of prison terms up to 36 months that may be imposed upon a defendant that is convicted for third-degree-felony strangulation). Further, during the sentencing hearing, the court reasoned, “I’m [not] necessarily here to put you under the prison. I don’t think adding an additional three years and you end up doing seven is necessarily appropriate.”

{¶ 18} We find no merit in Hess’s argument that his consecutive sentence resulted in “the effective imposition of more than four years’ incarceration for a third degree felony.” This ignores that Hess’s aggregate prison term is not merely the product of his strangulation conviction in this case but rather results from convictions for three felonies, including the two entered in the Lorain County Case. *See State v. Muntaser*, 2003-Ohio-5809, ¶ 55 (8th Dist.) (“[C]onsecutive sentences for multiple convictions may exceed the maximum sentence for the single most serious offense.”).

{¶ 19} Hess also argues that in imposing consecutive sentences, the trial court did not consider his addiction and gave undue weight to his failure to appear in court for a prior proceeding in this case. As to each of these contentions, the record demonstrates that the opposite is true. Prior to imposing a sentence, the court allowed Hess to speak about his addiction. Hess stated, “I knew I had a problem . . . I do apologize for walking out because I was worried about the next drink.” Nowhere in this statement to the court did Hess relate his addiction to his commission of the strangulation offense at issue.

{¶ 20} The court noted as much, replying:

I appreciate that but, you know, my concern is more about you beating and strangling this woman and less about you showing up for court. I try not to allow a person’s behavior in court to overshadow their behavior in the community when I’m sentencing somebody and I’ve noticed that you haven’t made one comment about the fact that this woman says she woke up from having you on top of her with your hands around her neck, so that concerns me.

{¶ 21} So, rather than being “fixated on the failure to appear,” as Hess characterizes the trial court, the court explicitly stated that Hess’s conduct in committing the strangulation was of greater importance to it in fashioning Hess’s sentence. Again, the trial court did not ignore Hess’s addiction; rather it expressly considered it after allowing Hess to speak on the issue. Having done so, the court observed that Hess did not identify addiction as having contributed to the strangulation.

{¶ 22} Having addressed Hess’s arguments regarding the seriousness of his offense and proportionality of the sentence, we turn to the court’s application of the R.C. 2929.14(C)(4)(a)-(c) factors. Again, the court found that Hess committed the strangulation in this case while awaiting trial in another matter. The record supports this finding. The State informed the court that in the Lorain County Case, Hess was indicted on November 8, 2023, and sentenced in September 2025. The State further explained that between those dates, on November 5, 2024, Hess was indicted in the Cuyahoga County Case, alleging that Hess committed strangulation on or about October 11, 2024. The court asked defense counsel, “Do you feel like you have enough information . . . to concede that this is an offense that occurred while the defendant was awaiting trial?” Defense counsel replied, “I don’t have any reason to dispute that.” Moreover, regarding the court’s finding that Hess’s criminal history supported the imposition of consecutive sentences, the record reflects that Hess was convicted of two offenses of violence that occurred in a two-year span. *See*

R.C. 2901.01(A)(9) (defining an offense of violence to include felonious assault and strangulation).

{¶ 23} Finally, we turn to several cases cited by Hess. He points out that, in *State v. Nazir*, 2024-Ohio-577 (8th Dist.), a criminal defendant appealed a sentence on the basis that the trial court had placed too much emphasis on his failure to appear in court. As noted above, we do not find that the trial court gave undue weight to Hess's failure to appear for a prior proceeding in reaching its determination to impose a consecutive sentence. Also detrimental to Hess's reliance on *Nazir* is that in that case the court affirmed the contested sentence despite the defendant's arguments about the trial court's consideration of the defendant's failure to appear in court. Hess cites *State v. Brandon*, 2025-Ohio-49 (8th Dist.), in which this court reversed a monetary fine for failure to appear. The trial court in *Brandon* erred by imposing the fine after issuing a final order. No similar procedural history exists here. Hess also points to *State v. Moore*, 2014-Ohio-5135 (8th Dist.), in which a trial court's imposition of consecutive sentences was reversed on appeal. The consecutive sentence in *Moore* was found to be disproportionate to the offender's conduct where a codefendant had engaged in more serious conduct than the appellant but was not subjected to a consecutive sentence. The court's analysis in *Moore* is distinct from this case involving a single defendant.

{¶ 24} In light of the foregoing, we do not find that the trial court's imposition of consecutive sentences was clearly and convincingly unsupported by

the record. We do not find that the court imposed a sentence that was contrary to law. Accordingly, the 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. 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.

LISA B. FORBES, JUDGE

MICHELLE J. SHEEHAN, A.J., and
MICHAEL JOHN RYAN, J., CONCUR