

COURT OF APPEALS OF OHIO

**EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA**

STATE OF OHIO,	:	
	:	
Plaintiff-Appellee,	:	No. 116029
	:	
v.	:	
	:	
KA'RON OWENS,	:	
	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED AND REMANDED
RELEASED AND JOURNALIZED: October 8, 2026

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case Nos. CR-25-700973-A, CR-25-701286-A, CR-25-704798-A,
and CR-25-706346-A

Appearances:

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

Moran & Fisher, Attorneys at Law, LLC, Susan J. Moran,
and Michael T. Fisher, *for appellant*.

LISA B. FORBES, P.J.:

{¶ 1} Ka’Ron Owens (“Owens”) appeals his convictions after pleading guilty and his prison sentence for criminal offenses imposed in four cases. Following

a thorough review of the record and the law, we affirm; however, we remand for the issuance of corrected journal entries.

I. Facts and Procedural History

{¶ 2} This appeal arises from Owens’s guilty pleas in Cuyahoga C.P. No. CR-25-706346-A (“Failure to Comply Case”), Cuyahoga C.P. No. CR-25-701286-A (“Drug Trafficking Case”), Cuyahoga C.P. No. CR-25-700973-A (“Resisting Arrest Case”), and Cuyahoga C.P. No. CR-25-704798-A (“Possession of Cocaine Case”).

{¶ 3} At a plea hearing held on December 10, 2025, Owens pled guilty to criminal offenses in each of the above cases. At the hearing, the State explained that its plea offer was “packaged” to resolve all four cases in one proceeding. In the Failure to Comply Case, Owens pled guilty to aggravated possession of drugs, a felony of the third degree, in violation of R.C. 2925.11(A); failure to comply, a felony of the third degree, in violation of R.C. 2921.331(B); and obstructing official business, a fifth-degree felony, in violation of R.C. 2921.31(A). In the Drug Trafficking Case, pertinent to this appeal, Owens pled guilty to drug trafficking (heroin), a felony of the third degree, in violation of R.C. 2925.03(A)(2) as well as five other offenses. In the Resisting Arrest Case, Owens pled guilty to obstructing official business, a felony of the fifth degree, in violation of R.C. 2921.31(A); resisting arrest, a misdemeanor of the second degree, in violation of R.C. 2921.33(A); and falsification, a misdemeanor of the first degree, in violation of R.C. 2921.13(A)(3). In the Possession of Cocaine Case, Owens pled guilty to possession of cocaine, a

felony of the fifth degree, in violation of R.C. 2925.11(A) and obstructing official business, a misdemeanor of the second degree, in violation of R.C. 2921.31(A).

{¶ 4} During the plea hearing, the trial court did not advise Owens that under R.C. 2921.331(D), an offender sentenced to a prison term for failure to comply “shall serve the prison term consecutively to any other prison term or mandatory prison term imposed upon the offender.”

{¶ 5} The cases proceeded to a sentencing hearing on January 7, 2026. Concerning the Failure to Comply Case, the court sentenced Owens as follows:

[A]s to . . . aggravated possession of drugs, the defendant is sentenced to 18 months in prison. As to . . . failure to comply, this count must run consecutive pursuant to statute, and . . . the defendant is sentenced to one year in prison. As to . . . obstructing official business, the defendant is sentenced to six months in prison.

{¶ 6} The trial court explained that Owens’s 18-month prison term for aggravated possession of drugs would run concurrently to his 6-month prison term for obstructing official business. The court again noted that the one-year prison term for failure to comply “must run consecutive so the total time in [the Failure to Comply Case] is two and a half years.”

{¶ 7} At the hearing, concerning the Drug Trafficking Case, the trial court imposed on Owens an 18-month prison sentence for drug trafficking. Owens was also sentenced in the Resisting Arrest Case and the Possession of Cocaine Case. His sentences in those cases did not affect the total aggregate prison term that he contests in this appeal. As discussed below, the trial court ran those sentences concurrently to Owens’s longer 18-month prison term in the Drug Trafficking Case.

Owens raises an assignment of error about the imposition of consecutive sentences but does not contest the prison terms that ran concurrently to one another.

{¶ 8} At the sentencing hearing, the trial court announced that Owens's prison terms in the Drug Trafficking Case, the Resisting Arrest Case, and the Possession of Cocaine Case would run concurrently to one another and consecutively to the two-and-a-half year sentence in the Failure to Comply Case, for a total aggregate prison sentence of four years. The court stated:

[The Drug Trafficking Case, Resisting Arrest Case, the Possession of Cocaine Case,] those cases will run concurrent for a total time of – a total time of 18 months. [The Failure to Comply Case,] which total time now is two and a half years, that will run also consecutive . . . for a total time of four years in prison.

{¶ 9} In support of its discretionary decision to impose consecutive sentences, the trial court made the following findings:

[C]onsecutive sentences are necessary to protect the public from future crime and to punish the offender . . . the consecutive sentences are not disproportionate to the seriousness of the offender's conduct and to the danger the defendant poses to the community. Furthermore . . . the defendant committed the actions in [the cases underlying this appeal] while he was on community control.

{¶ 10} On January 7, 2026, the trial court issued one journal entry of conviction in each of the four cases underlying this appeal. In part, the entries noted that in the Failure to Comply Case, the court imposed a 12-month prison term for failure to comply, which would run consecutively to an 18-month prison term for aggravated possession of drugs, for a total prison term of 30 months. The entries also noted that, in the Drug Trafficking Case, the court imposed an 18-month prison term for drug trafficking, to be served consecutively to the 30-month prison term in

the Failure to Comply Case, “for a total calculated term of 48 months.” The journal entries did not include the findings that the court made at hearing regarding its decision to impose consecutive sentences.

{¶ 11} Owens appealed, raising the following assignments of error:

1. Appellant’s guilty pleas were not made knowingly, intelligently, or voluntarily with a full understanding of the consequences.
2. The consecutive prison sentences imposed by the trial court are contrary to law.

II. Law and Analysis

A. Assignment of Error No. 1 — Advisement During Crim.R. 11 Guilty Plea Hearing Concerning Mandatory Consecutive Sentences

{¶ 12} Owens asserts that the trial court failed to advise him that any prison term it imposed on him for his failure-to-comply conviction was required to run consecutively to his other prison sentences. We agree but find that Owens has not demonstrated that his guilty plea may be vacated absent a showing of prejudice or that he was prejudiced by the court’s error.

1. Crim.R. 11 Advisements Generally and Demonstration of Prejudice

{¶ 13} Crim.R. 11 outlines procedures that trial courts must undertake when accepting pleas. The rule requires “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.” *State v. Dangler*, 2020-Ohio-2765, ¶ 11, quoting *State v. Stone*, 43 Ohio St.2d 163, 168 (1975).

{¶ 14} Crim.R. 11(C)(2) provides that a court shall not accept a guilty plea without first:

(a) Determining that the defendant is making the plea voluntarily, with understanding of the nature of the charges and of the maximum penalty involved, and if applicable, that the defendant is not eligible for probation or for the imposition of community control sanctions at the sentencing hearing.

(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.

(c) Informing the defendant and determining that the defendant understands that by the plea the defendant is waiving the rights to jury trial, to confront witnesses against him or her, to have compulsory process for obtaining witnesses in the defendant's favor, and to require the state to prove the defendant's guilt beyond a reasonable doubt at a trial at which the defendant cannot be compelled to testify against himself or herself.

{¶ 15} “[T]rial courts need not recite Crim.R. 11(C) verbatim ‘Rather, the focus, upon review, is whether the record shows that the trial court explained or referred to the right in a manner reasonably intelligible to th[e] defendant.’” *State v. Grayer*, 2019-Ohio-3511, ¶ 12 (8th Dist.), quoting *State v. Ballard*, 66 Ohio St.2d 473, 479 (1981).

{¶ 16} Ordinarily, a defendant seeking to have his or her conviction reversed on appeal must establish that he or she suffered prejudice resulting from an error that occurred during trial court proceedings. *Dangler*, 2020-Ohio-2765, at ¶ 13. The test for prejudice where a trial court fails to advise a defendant at a plea hearing is “whether the plea would have otherwise been made.” *Dangler* at ¶ 16, quoting *State v. Nero*, 56 Ohio St.3d 106, 108 (1990). “Prejudice must be established on the

face of the record.” (Cleaned up.) *State v. Hatchell*, 2023-Ohio-3713, ¶ 47 (8th Dist.), quoting *Dangler* at ¶ 24.

2. Exceptions to the Prejudice Requirement

{¶ 17} The Ohio Supreme Court has recognized “a limited exception to the prejudice [requirement] in the criminal-plea context” where “a trial court fails to explain the constitutional rights that a defendant waives by pleading guilty.” *Dangler* at ¶ 14. Under such circumstances, “we presume that the plea was entered involuntarily and unknowingly, and no showing of prejudice is required.” *Id.* The Ohio Supreme Court has identified the constitutional rights involved in a plea hearing as “those set forth in Crim.R. 11(C)(2)(c): the right to a jury trial, the right to confront one’s accusers, the privilege against self-incrimination, the right to compulsory process to obtain witnesses, and the right to require the state to prove guilt beyond a reasonable doubt.” *Id.*

{¶ 18} “[W]hen a trial court fails to fully cover . . . ‘nonconstitutional’ aspects of the plea colloquy, a defendant must affirmatively show prejudice to invalidate a plea.” *Dangler* at ¶ 14, quoting *State v. Veney*, 2008-Ohio-5200, ¶ 17, accord *State v. Davner*, 2017-Ohio-8862, ¶ 42 (8th Dist.) (“If the trial court partially complied” with nonconstitutional aspects of Crim.R. 11(C)(2), “the plea is properly vacated only if the defendant demonstrates prejudice.”). Notable here, “[t]he advisement of the maximum penalty is a nonconstitutional right.” *State v. Malenda*, 2017-Ohio-5574, ¶ 5 (8th Dist.), citing *State v. Clark*, 2008-Ohio-3748, ¶ 31.

{¶ 19} An “additional exception to the prejudice requirement” applies in the event of “a trial court’s *complete* failure to comply with a portion of Crim.R. 11(C),” which “eliminates the defendant’s burden to show prejudice.” (Emphasis in original.) *Dangler*, 2020-Ohio-2765, at ¶ 15, citing *State v. Sarkozy*, 2008-Ohio-509, ¶ 22. In *Sarkozy*, the Court stated, “A complete failure to comply with [Crim.R.11(C)(2)(a)] does not implicate an analysis of prejudice.” *Id.* The Court concluded that a “complete failure” had occurred where the trial court “made no mention of postrelease control in [a] plea colloquy” involving a defendant that was subject to a mandatory five years of postrelease control. *Sarkozy* at ¶ 22 and 23.

{¶ 20} “The Ohio Supreme Court has not explicitly defined a trial court’s ‘complete failure to comply’ under a Crim.R. 11 analysis.” *State v. Worley*, 2026-Ohio-2934, ¶ 12 (8th Dist.). This court has stated, “A complete failure under Crim.R. 11(C)(2)(a) occurs when the trial court entirely omits an advisement to a defendant about a distinct component of the maximum penalty.” (Cleaned up.) *State v. White*, 2025-Ohio-5346, ¶ 24 (8th Dist.), citing *State v. Walker*, 2024-Ohio-6079, ¶ 29 (1st Dist.). “For instance, a trial court completely fails to comply with Crim.R. 11(C)(2)(a) when it neglects to inform a defendant about *a class of penalties* they may suffer.” (Cleaned up.) (Emphasis in original.) *Id.*, quoting *State v. Johnson*, 2025-Ohio-149, ¶ 19 (1st Dist.) “On the other hand, a trial court partially complies with Crim.R. 11(C)(2)(a) if it mentions all components of the maximum penalty during the plea colloquy, even if the advisement as to any one is incomplete or inaccurate.” (Cleaned up.) *Id.*

3. Advisements Regarding Mandatory Consecutive Sentences

{¶ 21} A trial court is required to advise the defendant during the plea colloquy of mandatory consecutive sentences. *State v. Inkton*, 2026-Ohio-347, ¶ 15 (8th Dist.), citing *State v. Cobbledick*, 2020-Ohio-4744, ¶ 5-6 (8th Dist.) (“When consecutive sentences are mandatory, as opposed to discretionary, the trial court must advise the defendant of that mandatory sentence in order to achieve substantial compliance with Crim.R. 11(C)(2).”). “When consecutive sentences are mandatory, the consecutive sentence directly affects the length of the sentence, thus becoming a crucial component of what constitutes the ‘maximum’ sentence, and the failure to advise a defendant that a sentence must be served consecutively does not amount to substantial compliance with Crim.R. 11(C)(2).” *State v. Norman*, 2009-Ohio-4044, ¶ 7 (8th Dist.).¹

4. Standard of Review

{¶ 22} We review compliance with Crim.R. 11(C) de novo, considering the totality of the circumstances. *State v. Niyonzima*, 2025-Ohio-1185, ¶ 9 (8th Dist.). “De novo review encompasses an independent examination of the record and law without deference to the underlying decision.” *Torres v. Concrete Designs, Inc.*, 2019-Ohio-1342, ¶ 48 (8th Dist.), quoting *Gateway Consultants Group, Inc. v. Premier Physicians Ctrs., Inc.*, 2017-Ohio-1443, ¶ 22 (8th Dist.).

¹ “The applicable standard when determining whether a defendant’s plea was made understandingly and voluntarily in compliance with Crim.R. 11(C) is no longer one of strict or substantial compliance.” *Hatchell*, 2023-Ohio-3713, ¶ at 44 (8th Dist.), citing *Dangler* at ¶ 17.

5. Application

{¶ 23} Having reviewed the record, we find that the trial court erred in failing to inform Owens that his failure-to-comply conviction was required to run consecutively to his other prison sentences. We do not find, though, that his plea was entered involuntarily and unknowingly as a result.

{¶ 24} Owens has not demonstrated that the trial court's error was constitutional or amounted to complete failure, as would eliminate his burden to show prejudice. Again, mandatory consecutive sentences are part of the maximum sentence that a trial court must inform a defendant of during a plea hearing, and advisement of a maximum penalty is a nonconstitutional right.

{¶ 25} Regarding complete failure, unlike in *Sarkozy*, 2008-Ohio-509, at ¶ 23, where the trial court “made no mention of postrelease control,” the trial court here informed Owens that pleading guilty would expose him to potential consecutive prison sentences and explained a potential aggregate sentence that could result. The court stated, “Because there are multiple cases, I could run them all one after the other. If I were to do that, you’re looking at . . . up to 15 and a half years.” The court also informed Owens that his failure-to-comply conviction carried a possible prison term “from one year in prison up to five years in prison.” While the court did not advise Owens that his consecutive sentence for failure to comply was mandatory, the court did advise him that it could impose an aggregate consecutive sentence that was significantly greater than the prison term resulting from his conviction for failure to comply. Having been made aware of his potential exposure from consecutive

sentences, Owens pled guilty. Under these circumstances, we do not find that the court's failure to advise Owens of the mandatory consecutive sentence specific to his failure-to-comply conviction amounted to a complete failure. Owens is, therefore, required to demonstrate prejudice.

{¶ 26} Owens raises no arguments concerning how the trial court's error prejudiced him. We decline to construct arguments on his behalf, particularly where, as discussed, the trial court explained Owens's potential exposure from consecutive sentences before he pled guilty. *See Yenni v. Yenni*, 2022-Ohio-2867, ¶ 40 (8th Dist.) ("The appellant, rather than the appellate court, bears the burden to construct the necessary legal arguments that support the designated assignments of error.") *Id.*, citing *Doe v. Cuyahoga Cty. Community College*, 2022-Ohio-527, ¶ 26 (8th Dist.).

{¶ 27} Accordingly, assignment of error No. 1 is overruled.

B. Assignment of Error No. 2 — Imposition of Consecutive Sentences

{¶ 28} With his second assignment of error, Owens asserts that the trial court erred by imposing consecutive sentences without finding under R.C. 2929.14(C)(4)(a) that "the offenses were committed as one or more courses of conduct and that the harm caused was so great or unusual that a single prison term is not an adequate reflection on the seriousness of the conduct." We disagree.

1. Standard of Review

{¶ 29} R.C. 2953.08(G)(2) addresses appellate review of sentencing, providing that courts 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).

2. Consecutive-Sentencing Findings

{¶ 30} 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.

3. Application

{¶ 31} As an initial matter, the court was required to run Owens’s 12-month prison term for failure to comply consecutively to his other sentences. Owens was convicted under R.C. 2921.331(B), which 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.” Under R.C. 2929.14(C)(3), “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.” (Emphasis added.) The mandatory consecutive sentence arising from R.C. 2921.331 applies to “that prison term” imposed for failure to comply. It does not require prison terms for offenses other than failure to comply to run consecutively to one another.

{¶ 32} At its own discretion, the trial court ran Owens’s 18-month prison term for aggravated possession arising from the Failure to Comply Case consecutively to his sentences in the Resisting Arrest Case, the Possession of Cocaine Case, and the Drug Trafficking Case. Again, Owens’s sentences in the latter three cases were run concurrently to each other. Concerning the trial court’s discretionary decision to impose this additional consecutive sentence on Owens, we find no error. While the trial court did not make a “courses of conduct” finding under R.C. 2929.14(C)(4)(b), the court need only find that one of the factors set forth in R.C. 2929.14(C)(4)(a)-(c) applies to impose a consecutive sentence. It did so here,

finding under R.C. 2929.14(C)(4)(c) “that the defendant committed the actions in Case Numbers 701286, 700973, 704798, and 706346 while he was on community control in Case Numbers 691867 and 690932.” Our review of Owens’s presentence-investigation report confirms the same. Consequently, we find that the court made the required findings at Owens’s sentencing hearing to impose consecutive sentences, which were not clearly and convincingly unsupported by the record.

{¶ 33} We also find, as the State concedes, that the court failed to incorporate the R.C. 2929.14(C)(4) findings that it made during Owens’s sentencing hearing into the journal entries that it issued on January 7, 2026, concerning Owens’s sentence. Under circumstances such as these, this court has “remand[ed] . . . to the trial court for the limited purpose of issuing a nunc pro tunc journal entry incorporating its consecutive sentence findings.” *State v. Burrell*, 2017-Ohio-1041, ¶ 17 (8th Dist.). *See Semaj v. Savelli*, 2026-Ohio-1559, ¶ 15 (8th Dist.) (“A court may conform its journal entries to actions taken at hearing by issuing a nunc pro tunc order.”).

{¶ 34} In light of the foregoing, we do not find that Owens’s consecutive sentences were contrary to law. During Owens’s sentencing hearing, the trial court made findings under R.C. 2929.14(C)(4) required to impose consecutive sentences, and these findings were not clearly and convincingly unsupported by the record. But, because the trial court failed to incorporate the R.C. 2929.14(C)(4) findings it made at hearing into its journal entries setting forth Owens’s sentence, we find that a limited remand is necessary for the issuance of nunc pro tunc journal entries. On

remand, the trial court is instructed to modify the journal entry in each of the four cases underlying this appeal, all of which were issued on January 7, 2026, to reflect the consecutive-sentencing findings that it made at the sentencing hearing.

{¶ 35} Accordingly, assignment of error No. 2 is overruled.

{¶ 36} Judgment affirmed. Case remanded to the trial court for modification of all four journal entries underlying this appeal pursuant to the foregoing.

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 the issuance of corrected journal entries and 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, PRESIDING JUDGE

EMANUELLA D. GROVES, J., and
EILEEN A. GALLAGHER, J., CONCUR

