[Cite as *State v. Wynn-Bey*, 2026-Ohio-4483.]

COURT OF APPEALS OF OHIO

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

STATE OF OHIO,	:	
Plaintiff-Appellee,	:	No. 116142
v.	:	
AHDEL WYNN-BEY,	:	
Defendant-Appellant.	:	

JOURNAL ENTRY AND OPINION

JUDGMENT: AFFIRMED IN PART, VACATED IN PART, AND REMANDED
RELEASED AND JOURNALIZED: November 12, 2026

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-25-700757-A

Appearances:

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

Cullen Sweeney, Cuyahoga County Public Defender, and Aaron T. Baker, Assistant Public Defender, *for appellant*.

ANITA LASTER MAYS, J.:

{¶ 1} Defendant-appellant Ahdel Wynn-Bey ("Wynn-Bey") appeals his conviction for resisting arrest and his sentence. He contends that his conviction is not supported by sufficient evidence and is against the manifest weight of the

evidence, that his trial counsel was ineffective for failing to object to his sentence, and that his sentence is contrary to law. For the reasons that follow, we affirm Wynn-Bey's conviction, vacate the community-control condition requiring him to write letters of apology and the six-month jail term the trial court reserved for a violation of community control, and remand for resentencing.

I. Facts and Procedural History

{¶ 2} On March 24, 2025, Wynn-Bey went to the emergency department of Hillcrest Hospital in Mayfield Heights, where his pregnant wife had been taken. A security officer at the emergency department's metal detector radioed Cleveland Clinic police that a man had come in with a suspicious yellow liquid. Tr. 347-348, 354. Officer Nicole Frantz ("Officer Frantz") of the Cleveland Clinic Police Department responded. She testified that her goal was to talk with Wynn-Bey and learn whether he was carrying something that was not permitted in the hospital. Tr. 355.

{¶ 3} Officer Frantz found Wynn-Bey in the emergency department waiting room. When she approached him and began to speak, he became upset and was "very loud, very rude, very confrontational," and he did not answer her questions. Tr. 356, 365-367. When she asked whether his water bottle contained anything it should not, he did not answer. Tr. 367. Concerned that his voice was frightening the people in the small waiting room, she motioned for him to step out of the room with her. Tr. 370. Instead, he walked through a secured door into the treatment area of the emergency department. Tr. 368, 373-375.

{¶ 4} Officer Frantz followed. Two security officers stood in Wynn-Bey's path in a hallway leading to the treatment rooms. Tr. 402-403, 406. Officer Frantz testified that she repeatedly told Wynn-Bey that he was not permitted in that area and that he needed to walk back out with her, and that he told her he was not going to listen to her commands. Tr. 402-403, 406. She testified that he was swearing and speaking at a very high volume, that he said he would sue her and the Cleveland Clinic, that he advanced toward her, and that he tried to walk through her and the security officers. Tr. 407, 409-410. Patients were about 20 feet away, and staff were closer, in what she described as a high-traffic hallway through which patients are transported. Tr. 408-409. She gave him at least five or six warnings, beginning in the waiting room, and then a final warning that if he did not stop, she would arrest him for disorderly conduct. Tr. 408-411. When he did not stop, she told him he was under arrest and to put his hands behind his back. Tr. 412.

{¶ 5} Officer Frantz and her partner, Officer Greg Cheathem ("Officer Cheathem"), were unable to handcuff Wynn-Bey, who wrestled with them. Tr. 413, 416-417, 424. Officer Cheathem fell to the ground during the struggle. Tr. 423. The officers were able to handcuff Wynn-Bey only after Mayfield Heights police officers arrived to assist. Tr. 425, 428, 431. Officer Frantz was treated in the emergency department for an injury to her left shoulder and had bruising on her forearm, and Officer Cheathem had marks and bruising on both arms. Tr. 432, 438-441. Three surveillance videos of the encounter were played for the jury.

{¶ 6} On cross-examination, Officer Frantz agreed that the security officer's report concerned only the liquid, that she had no information that Wynn-Bey was disturbing anyone before she approached him, and that she did not have probable cause to arrest him when she first approached him. Tr. 505-506. She agreed that she stopped him to talk about the liquid and not because he was in a restricted area. Tr. 514-515. She acknowledged that the videos did not show anyone exiting the secured door when Wynn-Bey went through it, that her report's statement that he forced his way past someone was based on what someone told her, and that she did not know whether someone had buzzed him in. Tr. 519-529. She also agreed that if he had been buzzed in, he would no longer have been in a restricted area. Tr. 529. No liquid was found on Wynn-Bey when he was searched after his arrest. Tr. 312.

{¶ 7} A grand jury indicted Wynn-Bey on one count of obstructing official business in violation of R.C. 2921.31(A), a fifth-degree felony, and one count of resisting arrest in violation of R.C. 2921.33(B), a first-degree misdemeanor. The case was tried to a jury. At the close of the State's case, Wynn-Bey moved for acquittal under Crim.R. 29, arguing in part that there was no lawful "predicate" or basis for his arrest. The trial court denied the motion. Tr. 765-780. The defense rested without presenting evidence. The jury found Wynn-Bey not guilty of obstructing official business and guilty of resisting arrest. Tr. 886-887.

{¶ 8} At sentencing, the trial court placed Wynn-Bey on community control for three years. Tr. 905. As conditions of community control, the court ordered him to perform 100 hours of community work service, submit to random drug testing,

obtain or maintain employment, pay all applicable taxes, and, "as an act of restorative justice," write letters of apology to Officers Cheathem and Frantz, to be sent through the probation department. Tr. 905-907. The court told Wynn-Bey that any violation would result in his "facing six months in jail and/or a $1,000 fine." Tr. 907. In the January 15, 2026 sentencing journal entry, the trial court stated: "violation of conditions may result in jail term of 6 months and $1,000 fine." Defense counsel did not object to the sentence.

{¶ 9} Wynn-Bey filed a timely notice of appeal and raises four assignments of error for our review:

> 1. The trial court erred by failing to grant a judgment of acquittal pursuant to Crim. R. [sic] 29(A) on various charges in the indictment, and thereafter entering a judgment of conviction of those offenses which were not supported by sufficient evidence, in derogation of appellant's right to due process of law, as protected by the Fourteenth Amendment to the United States Constitution, as well as Section 16, Article I of the Ohio Constitution.
>
> 2. The trial court erred by entering a judgment of conviction that was against the manifest weight of the evidence, in derogation of Mr. Mosby's [sic] right to due process of law, as protected by the Fourteenth Amendment to the United States Constitution.
>
> 3. Trial counsel for Mr. Wynn-Bey failed to provide effective assistance of counsel, guaranteed by both the United States Constitution, and the Ohio Constitution when trial counsel failed to object to Mr. Wynn-Bey's sentence. U.S. Const. amend. VI. Oh. Const. Art. I, §10.
>
> 4. The trial court committed plain error when it issued an illegal sentence against Mr. Wynn-Bey.

II. Law and Analysis

A. Sufficiency of the Evidence

{¶ 10} In his first assignment of error, Wynn-Bey argues that the State failed to present sufficient evidence that he resisted a lawful arrest. He contends that when Officer Frantz approached him, he was not causing a disturbance, he had no obligation to answer her questions, and she conceded that she had no probable cause to arrest him.

{¶ 11} A Crim.R. 29 motion for acquittal is reviewed under the same standard as a challenge to the sufficiency of the evidence. *See State v. Ryan*, 2012-Ohio-5732, ¶ 31-32 (8th Dist.). "The relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt." *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus. Whether the evidence is legally sufficient is a question of law. *State v. Thompkins*, 78 Ohio St.3d 380, 386 (1997). The Supreme Court of Ohio recently clarified that a sufficiency review concerns the State's burden of production, not its burden of persuasion. *State v. McClain*, 2026-Ohio-3934, ¶ 21. A reviewing court "must consider the evidence in a light most favorable to the State and determine whether the evidence, if believed, would convince an average person that each element of the crime had been met." *Id.* at ¶ 1. The question is not whether the State's evidence would persuade the jury beyond a reasonable doubt, but "whether the State produced adequate evidence of each element." *Id.* at ¶ 21.

{¶ 12} R.C. 2921.33(B) provides that "[n]o person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person and, during the course of or as a result of the resistance or interference, cause physical harm to a law enforcement officer." "One of the required elements of resisting arrest is an underlying lawful arrest." *State v. Mahalli*, 2016-Ohio-940, ¶ 16 (8th Dist.). "An arrest is lawful if the officer had probable cause to believe a crime was committed by the defendant, even if the defendant is ultimately found not guilty of that particular offense." *Id.* at ¶ 17. The officer need not have evidence sufficient to support a conviction; the officer must "be in a position to form a reasonable belief that a misdemeanor is being committed, based upon evidence perceived through [the officer's] own senses." *Id.*, quoting *Columbus v. Lenear*, 16 Ohio App.3d 466, 468 (10th Dist. 1985).

{¶ 13} Wynn-Bey focuses on the moment Officer Frantz first approached him. But the lawfulness of the arrest depends on whether Officer Frantz had probable cause when she made it. Officer Frantz testified that she arrested Wynn-Bey for disorderly conduct. Tr. 408-409, 412. A person commits "disorderly conduct" when the person "recklessly cause[s] inconvenience, annoyance, or alarm to another by," among other things, "[e]ngaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior" or by "[m]aking unreasonable noise." R.C. 2917.11(A)(1) and (2). The offense is a fourth-degree misdemeanor when "[t]he offender persists in disorderly conduct after reasonable warning or request to desist." R.C. 2917.11(E)(3)(a).

{¶ 14} Viewed in a light most favorable to the State, the evidence showed that by the time of the arrest, Wynn-Bey was inside the treatment area of an emergency department, speaking at a very high volume, and swearing in a hallway used by staff and patients, about 20 feet from patients receiving care. Tr. 408-409. He approached Officer Frantz and tried to walk through her and the security officers blocking his path. Tr. 407, 410. Officer Frantz warned him at least five or six times and then gave him a final warning that he would be arrested for disorderly conduct if he did not stop. Tr. 408-411. He continued. Tr. 409, 412. On this evidence, a reasonable officer could believe that Wynn-Bey was recklessly causing alarm to others by making unreasonable noise and engaging in turbulent behavior and that he persisted after reasonable warning. Officer Frantz therefore had probable cause to arrest him for persistent disorderly conduct, and the arrest was lawful. That the jury acquitted Wynn-Bey of obstructing official business does not change the analysis. *See Mahalli* at ¶ 17, 20.

{¶ 15} The State also presented evidence of the remaining elements. Officer Frantz testified that Wynn-Bey wrestled with the officers and that they could not handcuff him until other officers arrived. Tr. 416-417, 424, 428, 431. Officer Frantz sustained an injury to her shoulder and bruising to her forearm, and Officer Cheathem sustained bruising to both arms. Tr. 432, 438-441. The evidence was sufficient to support the conviction, and the trial court did not err in denying Wynn-Bey's Crim.R. 29 motion.

{¶ 16} The first assignment of error is overruled.

B. Manifest Weight of the Evidence

{¶ 17} In his second assignment of error, Wynn-Bey argues that his conviction is against the manifest weight of the evidence. He incorporates the arguments he made in support of his first assignment of error.

{¶ 18} Weight of the evidence concerns "the inclination of the greater amount of credible evidence, offered in a trial, to support one side of the issue rather than the other." *Thompkins*, 78 Ohio St.3d at 387, quoting *Black's Law Dictionary* (6th Ed. 1990). In reviewing a manifest-weight challenge, we review the entire record, weigh the evidence and all reasonable inferences, consider the credibility of witnesses, and determine whether, in resolving conflicts in the evidence, the jury "clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered." *Id.*, quoting *State v. Martin*, 20 Ohio App.3d 172, 175 (1st Dist. 1983). Reversal on manifest-weight grounds is reserved for "the exceptional case in which the evidence weighs heavily against the conviction." *Id.*, quoting *Martin* at *id.* The Supreme Court of Ohio recently held that in conducting this review, appellate courts "must still give some deference to a fact-finder's credibility determinations." *State v. Reillo*, 2026-Ohio-2701, ¶ 3. A reviewing court should defer to those determinations "when presented with mere inconsistencies that arose at trial." *Id.* at ¶ 32. An appellate court "sits as the thirteenth juror only when evidence contradicts a fact-finder's findings" or when a witness's testimony is "so inconsistent as to material facts, so impeached, or so fantastical as to make it patently unbelievable." *Id.* at ¶ 3.

{¶ 19} This is not that exceptional case. The defense cross-examined Officer Frantz at length about the inaccuracies in her report, about whether Wynn-Bey was buzzed through the secured door, and about whether the people in the waiting room reacted to him at all. Tr. 495-533. The jury also watched the three surveillance videos of the encounter. The jury acquitted Wynn-Bey of obstructing official business, which shows that it independently weighed the evidence on each count. Having reviewed the entire record, we cannot say that the jury clearly lost its way when it found that Wynn-Bey resisted a lawful arrest and caused physical harm to the officers.

{¶ 20} The second assignment of error is overruled.

C. The Sentence

{¶ 21} Wynn-Bey's third and fourth assignments of error both challenge his sentence. He argues that the six-month jail term reserved for a violation of community control exceeds the statutory maximum and that the condition requiring him to write letters of apology to the officers compels speech in violation of the First Amendment. In his third assignment of error, he argues that trial counsel was ineffective for failing to object to these aspects of his sentence. In his fourth assignment of error, he argues that these aspects of his sentence are plain error. For ease of analysis, we address the six-month jail term under the fourth assignment of error and the apology letters under the third.

1. The Six-Month Jail Term

{¶ 22} Because Wynn-Bey did not object to his sentence, he has forfeited all but plain error. *State v. Rogers*, 2015-Ohio-2459, ¶ 3. To establish plain error, he must show an error that is an obvious defect in the proceedings and that affected the outcome. *Id.* at ¶ 22, citing *State v. Barnes*, 94 Ohio St.3d 21, 27 (2002).

{¶ 23} When a court imposes a community-control sanction for a misdemeanor, the court must notify the offender that if the conditions of community control are violated, the court may, among other things, "[i]mpose a definite jail term from the range of jail terms authorized for the offense under section 2929.24 of the Revised Code." R.C. 2929.25(A)(3)(c). For a first-degree misdemeanor, the jail term may be "not more than one hundred eighty days." R.C. 2929.24(A)(1). The trial court told Wynn-Bey that a violation would result in his facing six months in jail, and its journal entry states that a violation may result in a jail term of six months. A term of six months exceeds 180 days. *State v. Hariston*, 2015-Ohio-4500, ¶ 37, 39 (8th Dist.). The State concedes the error, and we agree that it is obvious.

{¶ 24} The State asks us to modify the journal entry to substitute 180 days for six months under App.R. 12(B), as we did in *Hariston*. We decline. In *Hariston*, the trial court sentenced the defendant to six months in jail, so its intent to impose the maximum jail term was clear from the record. *Id.* at ¶ 11, 39. Here, the six months was not a jail term the court imposed; it was the notice the court gave Wynn-Bey of the jail term he could face if he violated community control. The record does

not tell us what term within the statutory range the trial court would have stated had it applied the 180-day limit. Under these circumstances, we remand for resentencing rather than modify the journal entry. *See State v. Philpott*, 2020-Ohio-5267, ¶ 91 (8th Dist.).

{¶ 25} The fourth assignment of error is sustained as to the six-month jail term. Because we will resolve the apology-letter condition under the third assignment of error, the remainder of the fourth assignment of error is moot. *See* App.R. 12(A)(1)(c).

2. The Letters of Apology

{¶ 26} To establish ineffective assistance of counsel, Wynn-Bey must show that counsel's performance was deficient and that the deficient performance prejudiced him. *Strickland v. Washington*, 466 U.S. 668, 687 (1984); *State v. Bradley*, 42 Ohio St.3d 136 (1989), paragraph two of the syllabus. To show prejudice, he must show a reasonable probability that, but for counsel's error, the result of the proceeding would have been different. *Bradley* at paragraph three of the syllabus.

{¶ 27} We review a trial court's imposition of community-control conditions for an abuse of discretion. *State v. Talty*, 2004-Ohio-4888, ¶ 10. In determining whether a condition is valid, courts consider whether the condition "(1) is reasonably related to rehabilitating the offender, (2) has some relationship to the crime of which the offender was convicted, and (3) relates to conduct which is criminal or reasonably related to future criminality and serves the statutory ends of probation."

Id. at ¶ 12, quoting *State v. Jones*, 49 Ohio St.3d 51, 53 (1990). But a condition "cannot be overly broad so as to unnecessarily impinge upon the probationer's liberty." *Id.* at ¶ 13, citing *Jones* at 52.

{¶ 28} The State argues that the apology letters satisfy each prong of the *Jones* test because they can help Wynn-Bey take accountability for his actions and understand how his conduct harmed others. That argument does not answer the constitutional problem Wynn-Bey raises. The First Amendment protects "both the right to speak freely and the right to refrain from speaking at all." *Wooley v. Maynard*, 430 U.S. 705, 714 (1977). "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein." *West Virginia State Bd. of Edn. v. Barnette*, 319 U.S. 624, 642 (1943).

{¶ 29} An apology is an expression of the speaker's own remorse and acceptance of fault. The condition the trial court imposed requires Wynn-Bey, under threat of jail, to express to the officers a sentiment he disclaims. He pleaded not guilty, went to trial, and was acquitted of one of the two charges. Although he expressed regret at sentencing for what the officers went through, he also told the trial court that he believed he had been permitted to go where he was going. Tr. 896, 898-899. He maintains on appeal that he owes the officers no apology. A condition that compels a probationer to profess remorse he disclaims impinges directly on his freedom to refrain from speaking. Nothing in the record shows that such a

compelled statement was necessary to serve the purposes of misdemeanor sentencing, which the trial court's remaining conditions, including 100 hours of community work service so that Wynn-Bey would "give back to the community," were designed to serve. Tr. 905. The apology-letter condition therefore unnecessarily impinges upon Wynn-Bey's liberty. *See Talty* at ¶ 13.

{¶ 30} Trial counsel did not object to the condition. When the trial court asked whether counsel was satisfied that the sentence was lawful, appropriate, and in the interest of justice, counsel answered that he was. Tr. 908. A condition that compels a defendant to speak, under threat of jail, implicates a fundamental constitutional right, and reasonable counsel would have objected to it. Counsel's failure to do so was deficient. The record also establishes prejudice. The trial court specifically invited counsel to raise any concern about the lawfulness of the sentence, and the condition requiring the letters was a discrete part of the sentence that the court could have omitted without disturbing the rest of it. There is a reasonable probability that, had counsel objected, the trial court would not have imposed the condition.

{¶ 31} The third assignment of error is sustained as to the apology-letter condition. Because we have sustained the fourth assignment of error as to the six-month jail term, the remainder of the third assignment of error is moot. *See* App.R. 12(A)(1)(c).

III. Conclusion

{¶ 32} Wynn-Bey's conviction for resisting arrest is affirmed. The community-control condition requiring Wynn-Bey to write letters of apology to Officers Cheathem and Frantz and the six-month jail term reserved for a violation of community control are vacated, and the case is remanded to the trial court for resentencing consistent with this opinion.

{¶ 33} Judgment affirmed in part, vacated in part, and remanded.

It is ordered that appellee and appellant share 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 in part, any bail pending is terminated. Case remanded to the trial court for resentencing.

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

ANITA LASTER MAYS, JUDGE

EMANUELLA D. GROVES, P.J., and
KATHLEEN ANN KEOUGH, J., CONCUR