

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No. 31281

Appellee

v.

ARBE BEANE

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE No. CR-2021-07-2540

Appellant

DECISION AND JOURNAL ENTRY

Dated: August 19, 2026

FLAGG LANZINGER, Presiding Judge.

{¶1} Defendant-Appellant, Arbe Beane, appeals from the judgment of the Summit County Court of Common Pleas. This Court affirms.

I.

{¶2} Beane attended a family cookout hosted by his daughter and her boyfriend. The daughter and the boyfriend had a disagreement while the boyfriend was grilling food on their elevated front porch. Beane attempted to intervene, and the boyfriend ultimately shoved him. The shove caused Beane to fall off the porch. When he stood up, he walked to his car and returned to the porch with a gun. Beane shot the boyfriend before leaving the scene.

{¶3} The daughter took the boyfriend to the hospital where he was treated for his injuries. The police spoke with each of them at the hospital, and both identified Beane as the shooter. The police obtained a warrant for his arrest, but officers were unable to locate him. Members of the

Violent Fugitive Task Force apprehended him 15 days after the shooting. The Task Force members found Beane hiding under a bed in a Cleveland motel room.

{¶4} Beane was indicted for felonious assault with a deadly weapon, an attendant firearm specification, and having a weapon while under disability. A jury found him guilty of both charges and the specification. The trial court sentenced him to a total of 10 to 13 years in prison.

{¶5} Beane now appeals from his convictions and raises three assignments of error for review.

II.

ASSIGNMENT OF ERROR I

THE COURT ERRED AND COMMITTED PLAIN ERROR IN ALLOWING THE MEDICAL CHART AND OR THE CONSULT NOTE OF [THE BOYFRIEND] FROM SUMMA HEALTH, CITY HOSPITAL INTO EVIDENCE AND IN SO (sic), ERRED IN DENYING DEFENDANT’S MOTION TO EXCLUDE THEM AS TESTIMONIAL.

{¶6} In his first assignment of error, Beane argues the trial court erred by admitting into evidence the boyfriend’s medical record and a consultation note included in that record. To the extent he failed to preserve any portion of his argument for appeal, he also raises a claim of plain error. For the following reasons, we reject his arguments.

{¶7} “It is well settled that, ‘[t]o demonstrate reversible error, an aggrieved party must demonstrate both error and resulting prejudice.’” (Alteration in original.) *State v. Austin*, 2017-Ohio-7845, ¶ 30 (9th Dist.), quoting *Princess Kim, L.L.C. v. U.S. Bank, N.A.*, 2015-Ohio-4472, ¶ 18 (9th Dist.). “Any error, defect, irregularity, or variance which does not affect substantial rights shall be disregarded.” Crim.R. 52(A). Even a constitutional error “can be held harmless if we determine that it was harmless beyond a reasonable doubt.” *State v. Conway*, 2006-Ohio-791, ¶ 78.

{¶8} During its case-in-chief, the State called as a witness the records custodian for Summa Health in Akron. The custodian testified that Summa Health generated a medical record when the boyfriend sought emergency treatment. Before the State could elicit any information about the contents of that record, Beane objected. He argued that the record contained inadmissible hearsay. The alleged hearsay included a statement wherein the boyfriend named Beane as the man who shot him. Over Beane's objection, the trial court allowed the State to question the custodian about the contents of the medical record.

{¶9} The custodian read portions of the boyfriend's medical record for the jury. Included in that recitation was the following note:

Patient was reportedly shot by his girlfriend's father at a Fourth of July party. Patient was found to have [gunshot wound] to the right suprapubic region and left hand fifth digit. The patient remained hemodynamically stable; CT imaging revealed a metallic foreign body lateral to the base of the penis on the right with gas in the scrotum.

Currently, patient denies dysuria and hematuria. Able to void without issue. Reports significant right testicular pain. Actively vomiting in room.

Beane renewed his objection to the medical record after the State rested and sought to admit it as an exhibit. He argued that the medical record contained hearsay statements that were not made for the purpose of medical diagnosis or treatment. Once again, the trial court overruled his objection.

{¶10} On appeal, Beane argues the trial court erred by admitting the medical record because it contained hearsay. He notes that the State introduced the contents of the record through the custodian rather than a medical provider. Thus, Beane argues, he had no opportunity to cross-examine a provider about medical issues and serious physical harm. According to Beane, the medical record was the only evidence the State introduced to support the element of serious

physical harm. He claims he was denied due process when he was deprived of the ability to cross-examine a medical provider about the boyfriend's injuries.

{¶11} Beane also argues the medical record contained a testimonial statement. Specifically, it contained the statement wherein the boyfriend identified Beane as the alleged shooter. Beane argues that statement had no bearing on the boyfriend's medical treatment. According to Beane, the trial court erred by admitting the statement because it was inadmissible under the Confrontation Clause.

{¶12} Assuming without deciding that the trial court erred by admitting the boyfriend's medical record and its contents, we cannot conclude that the error prejudiced Beane. The boyfriend and the daughter testified at trial. They both stated that Beane shot the boyfriend. Several police officers also testified. They confirmed that the boyfriend and the daughter identified Beane as the shooter when interviewed at the hospital. The boyfriend testified that Beane shot him in the lower abdomen and finger. He testified that he spent several days in the hospital, still had bullet fragments in his leg, continued to have pain in his groin, and was unable to bend the finger struck by Beane's bullet. His testimony constituted evidence of serious physical harm. *See* R.C. 2901.01(A)(5)(c)-(e). Moreover, because both the boyfriend and the daughter identified Beane as the shooter at trial, we cannot say there is any reasonable possibility that the single identification statement contained in the boyfriend's medical record contributed to Beane's conviction. *Conway*, 2006-Ohio-791, at ¶ 78. The record does not support the conclusion that Beane was prejudiced by any error in the admission of the boyfriend's medical chart. Accordingly, his first assignment of error is overruled.

ASSIGNMENT OF ERROR II

THE COURT ERRED AS A MATTER OF LAW AND ABUSED ITS DISCRETION IN DENYING COUNSEL'S REQUEST FOR A

CONTINUANCE WHEN MR. BEANE DID NOT APPEAR ON THE SECOND DAY OF TRIAL.

{¶13} In his second assignment of error, Beane argues the trial court abused its discretion when it refused to grant him a continuance on the second day of trial. We do not agree.

{¶14} “An appellate court reviews a trial court’s ruling on a motion for a continuance for an abuse of discretion.” *State v. Wells*, 2024-Ohio-2155, ¶ 19 (9th Dist.). An abuse of discretion means more than an error of judgment; it implies that the trial court’s attitude was unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

{¶15} “In determining whether the trial court abused its discretion by denying a motion for a continuance, this Court must ‘apply a balancing test, weighing the trial court’s interest in controlling its own docket, including facilitating the efficient dispensation of justice, versus the potential prejudice to the moving party.’” *Wells* at ¶ 20, quoting *State v. Dawalt*, 2007-Ohio-2438, ¶ 10 (9th Dist.). The Ohio Supreme Court has explained:

[i]n evaluating a motion for a continuance, a court should [consider]: the length of the delay requested; whether other continuances have been requested and received; the inconvenience to litigants, witnesses, opposing counsel and the court; whether the requested delay is for legitimate reasons or whether it is dilatory, purposeful, or contrived; whether the [movant] contributed to the circumstance which gives rise to the request for a continuance; and other relevant factors, depending on the unique facts of each case.

State v. Unger, 67 Ohio St.2d 65, 67-68 (1981). “There are no mechanical tests for deciding when a denial of a continuance is so arbitrary as to violate due process. The answer must be found in the circumstances present in every case, particularly in the reasons presented to the trial judge at the time the request is denied.” *Id.* at 67, quoting *Ungar v. Sarafite*, 376 U.S. 575, 589 (1964).

{¶16} Beane was present with his attorney for the first day of trial. The trial was set to resume the following morning at 9:00 a.m. At 9:37 a.m., the trial court went on the record and noted that Beane was absent. The trial court asked defense counsel whether he had heard from

Beane. Defense counsel indicated that he had exchanged messages with Beane the previous evening but had not heard from him that morning. Defense counsel stated that he had tried to contact Beane “by text and by cellphone” but had been unsuccessful. Defense counsel requested a “short continuance” to allow him more time to try to locate Beane.

{¶17} The trial court noted that Beane was aware of his trial date as they were mid-trial and he had been present the previous day. Nevertheless, the court found that Beane had not notified his attorney or the court that he would be absent. Nor were they aware of any reason for his absence. The court noted that the jury had already been waiting for the trial to resume for 40 minutes. The court found that Beane’s voluntary absence amounted to a waiver of his right to appear at all stages of the proceedings. The court denied the motion for a continuance and ordered the trial to proceed. After the jury entered the courtroom, the trial court issued them an instruction. The court instructed the jury that Beane was not present, and the court was treating his absence as a voluntary waiver of his right to be present. The court instructed the jury that they were not to consider his absence “in any way, shape or form as evidence of guilt[.]”

{¶18} The record reflects that, even after the jury found Beane guilty, he had no contact with the court or his attorney. The trial court issued a capias for his arrest, and more than a year and a half elapsed before he was taken into custody. At sentencing, Beane indicated that he failed to appear at trial because he was scared.

{¶19} Beane argues the trial court abused its discretion when it denied his attorney’s request for a brief continuance. He argues that a slight inconvenience to the jury, standing alone, was an insufficient reason to deny the request. He notes that there was no evidence to suggest a short delay would have inconvenienced any of the witnesses. Meanwhile, Beane argues, the denial

of the continuance had grave consequences for him, as he “did not have the benefit of counseling with his lawyer to get to trial.”

{¶20} Having reviewed the record, we cannot conclude that the trial court went so far as to abuse its discretion when it denied defense counsel’s request for a continuance. While the length of the delay requested was brief, the request was made mid-trial when the court, the attorneys, the jury, and any subpoenaed witnesses would have been affected by it. *See Unger*, 67 Ohio St.2d at 67-68. The only reason given for the request was that defense counsel could not locate or establish contact with Beane. *See id.* Yet, Beane was aware of his trial date. Moreover, at that point, the trial had already been delayed for 40 minutes while defense counsel sent text messages to Beane and attempted to call him. That additional attempts might have achieved a different result was entirely speculative. There is no indication in the record that defense counsel was not prepared to proceed without Beane. Nor is there any indication in the record that Beane planned to testify in his own defense. Under these particular facts and circumstances, the trial court’s decision to deny the requested continuance was not unreasonable, arbitrary, or unconscionable. *Blakemore*, 5 Ohio St.3d at 219. Accordingly, Beane’s second assignment of error is overruled.

ASSIGNMENT OF ERROR III

THE COURT FAILED TO MAKE ADEQUATE REQUIRED FINDINGS AND TO ADHERE TO R.C. 2929.14(C)(4) AND 2929.41(A) IN IMPOSING CONSECUTIVE SENTENCES AND AND (sic) AS SUCH, THE TRIAL COURT’S FINDINGS WERE ERRONEOUS AND THE SENTENCE EXCESSIVE AND ARE “CONTRARY TO LAW” AND THE SENTENCE IS PLAIN ERROR.

{¶21} In his third assignment of error, Beane argues the trial court erred when it imposed consecutive sentences without making adequate findings. He argues that the record does not support the court’s limited findings. Thus, he claims his sentence is excessive and contrary to law. For the following reasons, we reject his argument.

{¶22} “[A]n appellate court may vacate or modify a felony sentence on appeal only if it determines by clear and convincing evidence” that: (1) “the record does not support the trial court’s findings under relevant statutes[,]” or (2) “the sentence is otherwise contrary to law.” *State v. Marcum*, 2016-Ohio-1002, ¶ 1. Accord *State v. Polizzi*, 2026-Ohio-2588, ¶ 30. Clear and convincing evidence is that “which will produce in the mind of the trier of facts a firm belief or conviction as to the facts sought to be established.” *Cross v. Ledford*, 161 Ohio St. 469 (1954), paragraph three of the syllabus.

{¶23} “In order to impose consecutive sentences, ‘a trial court is required to make the findings mandated by R.C. 2929(C)(4) at the sentencing hearing and incorporate its findings into its sentencing entry’” *State v. Fazenbaker*, 2021-Ohio-3447, ¶ 28 (9th Dist.), quoting *State v. Bonnell*, 2014-Ohio-3177, syllabus. While “a trial court must state the required findings as part of the sentencing hearing[,] . . . a word-for-word recitation of the language of the statute is not required[.] [A]s long as the reviewing court can discern that the trial court engaged in the correct analysis and can determine that the record contains evidence to support the findings, consecutive sentences should be upheld.” *State v. Bennett*, 2018-Ohio-3935, ¶ 10 (9th Dist.), quoting *State v. Blackert*, 2015-Ohio-2248, ¶ 10 (9th Dist.).

{¶24} R.C. 2929.14(C)(4) provides:

If multiple prison terms are imposed on an offender for convictions of multiple offenses, the court may require the offender to serve the prison terms consecutively if the court finds that the consecutive service is necessary to protect the public from future crime or to punish the offender and 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 if the court also finds any of the following:

(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 crime by the offender.

Notably, while the trial court must make the findings mandated by R.C. 2929.14(C)(4), it "has no obligation to state reasons to support its findings." *Bonnell*, 2014-Ohio-3177, at syllabus.

{¶25} At Beane's sentencing, the State asked the trial court to impose a prison sentence of at least ten years. The State informed the court that it was unable to locate the boyfriend to give a statement. The State attributed that fact to the significant delay that occurred between trial and the sentencing hearing. The State noted that Beane was responsible for the delay because he absconded. The State argued that the boyfriend suffered serious health complications due to the gunshot wounds he sustained. It noted that Beane left the scene after the shooting and remained at large for 15 days at which point members of the Fugitive Task Force found him hiding under a motel room bed in Cleveland. The State noted that Beane had "a long criminal history of misdemeanors, but also felony convictions of domestic violence, drug possession, also drug trafficking and a prior weapon under disability conviction[]."

{¶26} The trial court sentenced Beane to (1) an indefinite term of six-to-nine years for felonious assault; (2) one year for having a weapon under disability; and (3) three years for his firearm specification. The court ordered the three terms to run consecutively for a total of 10 to 13 years in prison. In doing so, the court noted that Beane had shot an unarmed man as a result of a verbal disagreement and had seriously injured him. The court also noted that Beane disappeared after the first day of trial. The court found on the record that consecutive sentences were necessary to protect the public or punish Beane and were not disproportionate to the seriousness of his offense

or the danger he posed to the public. Additionally, the court found that he committed his offenses as part of a course of conduct, that the harm caused by his offenses was so great or unusual that no single prison term for any of his offenses would adequately reflect the seriousness of his conduct, and that his history of criminal conduct demonstrated consecutive sentences were necessary to protect the public from future crimes on his part. The court included the same findings in its written sentencing entry.

{¶27} Beane acknowledges that the trial court made findings in support of its sentencing decision. According to Beane, the court's findings "do not support consecutive sentences." He notes that two individuals spoke on his behalf at sentencing and expressed their opinion that he was a good man who simply made a bad decision to protect his family. Beane takes issue with the court's finding that consecutive sentences were necessary to protect the public from future crime. He argues that "it is unlikely that [his] behavior and crime will happen again." He also takes issue with the court's finding that consecutive sentences were not disproportionate to the seriousness of his offense. Beane acknowledges that shootings are always serious. Even so, he argues that the victim was not present to offer a victim impact statement, and thus, there was no evidence he continued to be affected by Beane's conduct. Beane also challenges the court's "unsupported ruling" that his actions were part of a continued course of conduct. He argues that he engaged in a single course of conduct wherein he used a firearm he was not legally permitted to carry to shoot the boyfriend. Lastly, Beane claims the trial court failed to account for his criminal history. He notes that the court never ordered a presentence investigation report. According to Beane, the prosecutor only offered an unsupported statement about his criminal history, and the trial court did not reference it.

{¶28} Upon review, we must conclude that the trial court made the requisite findings for consecutive sentences under R.C. 2929.14(C)(4). It made those findings on the record in open court and in its sentencing entry. Although the court did not engage in a lengthy sentencing analysis, it was not obligated to state specific reasons in support of its findings. *See Bonnell*, 2014-Ohio-3177, at syllabus. The record contains more than ample evidence to support those findings. *See State v. Eagle*, 2026-Ohio-615, ¶ 34 (9th Dist.); *Bennett*, 2018-Ohio-3935, at ¶ 10 (9th Dist.), quoting *Blackert*, 2015-Ohio-2248, at ¶ 10 (9th Dist.). Accordingly, we reject Beane’s argument that the court erred by imposing consecutive sentences. His third assignment of error is overruled.

III.

{¶29} Beane’s assignments of error are overruled. The judgment of the Summit County Court of Common Pleas is affirmed.

Judgment affirmed.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellant.

JILL FLAGG LANZINGER
FOR THE COURT

SUTTON, J.
STEVENSON, J.
CONCUR.

APPEARANCES:

RICHARD P. KUTUCHIEF, Attorney at Law, for Appellant.

ELLIOT KOLKOVICH, Prosecuting Attorney, and AMANDA R. FILIPPI, Assistant Prosecuting Attorney, for Appellee.