

STATE OF OHIO)
)ss:
COUNTY OF SUMMIT)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

STATE OF OHIO

C.A. No. 31629

Appellee

v.

JACOB EDELEN

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF SUMMIT, OHIO
CASE No. CR-2025-05-1350

Appellant

DECISION AND JOURNAL ENTRY

Dated: September 2, 2026

FLAGG LANZINGER, Judge.

{¶1} Appellant-Defendant Jacob Edelen appeals the judgment of the Summit County Court of Common Pleas. For the reasons that follow, this Court affirms in part, reverses in part, and remands for further proceedings consistent with this decision.

I.

{¶2} A Summit County grand jury indicted Edelen on the following two counts: (1) pandering sexually-oriented matter involving a minor or impaired person in violation of R.C. 2907.322(A)(5)/(C), a felony of the fourth degree (“Count One”); and (2) aggravated possession of drugs in violation of R.C. 2925.11(A)/(C)(1)(a), a felony of the fifth degree (“County Two”). Edelen pleaded not guilty.

{¶3} The State and Edelen subsequently reached a plea agreement. The parties agreed Edelen would enter a plea of guilty to both counts in the indictment and, in exchange, Edelen would serve a prison sentence. The parties would be free to argue the amount of prison time at the

sentencing hearing. The trial court accepted Edelen's guilty plea, found him guilty of both counts, and set the matter for a sentencing hearing. The trial court ordered a presentence investigation and ordered Edelen to undergo a psychosexual evaluation. Following the sentencing hearing, the trial court issued an order sentencing Edelen to 18 months in prison on Count One, and 12 months in prison on Count Two, to be served consecutively. The trial court ordered Edelen to register as a Tier II sex offender and included additional terms and conditions for Edelen's incarceration and post-release control.

{¶4} Edelen appeals his sentence, raising three assignments of error for our review.

II.

ASSIGNMENT OF ERROR I

APPELLANT'S MAXIMUM AND CONSECUTIVE SENTENCES FOR THE OFFENSES OF PANDERING SEXUALLY-ORIENTED MATTER INVOLVING A MINOR OR IMPAIRED PERSON, IN VIOLATION OF SECTION 2907.322(A)(5) OF THE OHIO REVISED CODE, AND AGGRAVATED POSSESSION OF DRUGS, IN VIOLATION OF SECTION 2925.11(A) OF THE OHIO REVISED CODE, WERE CONTRARY TO AND IN VIOLATION OF OHIO'S SENTENCING LAWS, WHICH ARE CODIFIED PURSUANT TO SECTION 2929.14 *ET. SEQ.* OF THE OHIO REVISED CODE.

{¶5} In his first assignment of error, Edelen contends the trial court erred by imposing consecutive sentences because the trial court failed to make the requisite findings pursuant to R.C. 2929.14(C)(4) for the charge of aggravated drug possession. Edelen's argument has no merit.

{¶6} Edelen also appears to assert the trial court erred when it imposed maximum sentences on both counts. However, Edelen has failed to develop an argument in support of this contention. We decline to do so for him. *State v. Franks*, 2017-Ohio-7045, ¶ 16 (9th Dist.).

{¶7} “[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; R.C. 2953.08(G)(2). “A sentence is ‘otherwise contrary to law’ . . . when it is ‘in violation of statute or legal regulations at a given time.’” *State v. McKnight*, 2023-Ohio-1933, ¶ 15 (9th Dist.), quoting *State v. Jones*, 2020-Ohio-6729, ¶ 34.

{¶8} Pursuant to R.C. 2929.14(C)(4), a trial court must engage in a three-step analysis and make certain findings before imposing consecutive sentences. First the trial court must find that: (1) “consecutive service is necessary to protect the public from future crime or to punish the offender” *Id.* Second, the trial court must find that “consecutive sentences are not disproportionate to the seriousness of the offender’s conduct and to the danger the offender poses to the public” *Id.* Third, the trial court must find at least one 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.

R.C. 2929.14(C)(4)(a)-(c).

{¶9} “[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, syllabus. However, a trial court is not required to explain its findings before imposing consecutive sentences. *Id.* “[T]he record must contain a basis upon which a

reviewing court can determine that the trial court made the findings required by R.C. 2929.14(C)(4) before it imposed consecutive sentences[.]” but:

a word-for-word recitation of the language of the statute is not required, and as 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.

Bonnell at ¶ 28-29.

{¶10} Here, the trial court relied on R.C. 2929.14(C)(4)(b) in imposing the consecutive prisons sentences. At the sentencing hearing, the trial court expressly found “that consecutive sentences [were] necessary to protect the public from future crime and to punish [Edelen] and [were] not disproportionate to the seriousness of [Edelen’s] conduct and to the danger [Edelen] poses to the public.” The trial court further found “that at least two offenses were committed as part of one or more courses of conduct and the harm caused by these offenses was so great or unusual that no single prison term for any of the offenses committed as part of the course of conduct adequately reflects the seriousness of the conduct.” Additionally, the trial court expressly stated in its journal entry:

The Court further finds, pursuant to Ohio Revised Code 2929.14(C)(4), that consecutive sentences are necessary to protect the public OR to punish the offender; that consecutive sentences are not disproportionate to the seriousness of the offender’s conduct; to the danger the offender poses to the public; and the court further finds the following:

- 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.

{¶11} On appeal, Edelen appears to argue that the trial court was required to make findings concerning each of the separate offenses. Edelen does not point to any legal authority to support this contention. *See* App.R. 16(A)(7) (requiring an appellant to support his contentions

“with citations to the authorities . . . on which appellant relies.”). The statute refers to running “sentences” (plural) consecutive to one another and Edelen has not shown the statute requires a trial court to recite the required findings separately for each count. R.C. 2929.14(C)(4).

{¶12} Edelen’s first assignment of error is overruled.

ASSIGNMENT OF ERROR II

THE TRIAL COURT ERRED WHEN IT FAILED TO ADVISE APPELLANT THAT HE WAS SUBJECT TO POST[-]RELEASE CONTROL FOR COUNT TWO OF HIS INDICTMENT BUT INCLUDED THE REQUIREMENT IN HIS SENTENCING ENTRY.

{¶13} In his second assignment of error, Edelen contends the trial court erred when it failed to advise him at the sentencing hearing that he was subject to post-release control for Count Two. We agree.

{¶14} “[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.” *Marcum*, 2016-Ohio-1002, at ¶ 1; R.C. 2953.08(G)(2). “A sentence is ‘otherwise contrary to law’ . . . when it is ‘in violation of statute or legal regulations at a given time.’” *McKnight*, 2023-Ohio-1933, at ¶ 15 (9th Dist.), quoting *Jones*, 2020-Ohio-6729, at ¶ 34.

{¶15} “[A] trial court must provide statutorily compliant notification to a defendant regarding post[-]release control at the time of sentencing, including notifying the defendant of the details of the post[-]release control and the consequences of violating post[-]release control.” (Alterations in original.) *State v. Callaghan*, 2021-Ohio-1047, ¶ 14 (9th Dist.), quoting *State v. Qualls*, 2012-Ohio-1111, ¶ 18; accord *State v. Bates*, 2022-Ohio-475, ¶ 11. “The court also ‘must incorporate into the sentencing entry the post[-]release[]control notice to reflect the notification that was given at the sentencing hearing.’” *Callaghan* at ¶ 14, quoting *Qualls* at ¶ 19. A sentence

is contrary to law if a trial court fails to properly impose post-release control at the sentencing hearing. *State v. Mills*, 2021-Ohio-52, ¶ 12 (9th Dist.), quoting *State v. Hennacy*, 2019-Ohio-1332, ¶ 25 (9th Dist.).

{¶16} The State concedes on appeal that the trial court failed to verbally advise Edelen at the sentencing hearing that he was subject to a two-year discretionary post-release control on Count Two. However, the State contends the error was harmless because the trial court ordered the discretionary post-release control to run concurrently with the mandatory five-year post-release control imposed on Count One. The State asserts the trial court’s “verbal notification of the mandatory post-release control term . . . functioned to encompass the concurrent discretionary post-release control term[.]” We reject the State’s contention.

{¶17} “It is established that ‘a trial court has a statutory duty to provide notice of post[-]release control at the sentencing hearing.’” *Bates* at ¶ 11, quoting *State v. Jordan*, 2004-Ohio-6085, ¶ 23, *overruled on other grounds* by *State v. Harper*, 2020-Ohio-2913; R.C. 2929.19(B)(2)(e). “Thus, because the trial court did not advise [Edelen] regarding post-release control at the sentencing hearing, that part of [Edelen’s sentence] must be set aside.” *State v. Shanaberger*, 2026-Ohio-431, ¶ 14, citing *Harper* at ¶ 42 (“[S]entencing errors in the imposition of post[-]release control render the sentence voidable, not void, and the sentence may be set aside if successfully challenged on direct appeal.”).

{¶18} In light of the foregoing, Edelen is entitled to a limited resentencing hearing to allow the trial court to: (1) properly impose post-release control; and (2) comply with the notification requirements under R.C. 2929.19(B)(2)(e). *See Shanaberger* at ¶ 14; *Callaghan*, 2021-Ohio-1047, at ¶ 16 (9th Dist.).

{¶19} Edelen’s second assignment of error is sustained.

ASSIGNMENT OF ERROR III

THE TRIAL COURT ERRED WHEN IT IMPOSED TERMS AND CONDITIONS ON APPELLANT’S TERM OF INCARCERATION AND POST-RELEASE CONTROL.

{¶20} In his third assignment of error, Edelen contends the trial court erred when it imposed terms and conditions on his term of incarceration and post-release control. We agree.

{¶21} “[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.” *Marcum*, 2016-Ohio-1002, at ¶ 1; R.C. 2953.08(G)(2). “A sentence is ‘otherwise contrary to law’ . . . when it is ‘in violation of statute or legal regulations at a given time.’” *McKnight*, 2023-Ohio-1933, at ¶ 15 (9th Dist.), quoting *Jones*, 2020-Ohio-6729, at ¶ 34.

{¶22} In Ohio, judges have no inherent power to create sentences, and are duty-bound to apply sentencing laws as written. *State v. Anderson*, 2015-Ohio-2089, ¶ 10, 12. Chapter 2929 of the Revised Code outlines Ohio’s felony-sentencing scheme. The statutes relevant here are R.C. 2929.11 through R.C. 2929.15. As the Supreme Court of Ohio has summarized:

R.C. 2929.11 admonishes trial courts to craft sentences guided by the “overriding purposes of felony sentencing,” such as protecting the public and punishing the offender, and to “accomplish those purposes without imposing an unnecessary burden on” government resources. R.C. 2929.12 gives trial courts a variety of factors regarding the offender, the offense, and the victim to consider at sentencing. R.C. 2929.13 dictates the sanctions trial courts are required to impose for certain offenses and degrees of offenses. R.C. 2929.14 establishes “definite” and “indefinite” prison terms.

Finally, R.C. 2929.15 allows trial courts to impose community-control sanctions when the General Assembly does not require them to impose a prison sentence . . .

State v. Logan, 2025-Ohio-1772, ¶ 19-20.

{¶23} Edelen pleaded guilty in Count One to a felony of the fourth degree and in Count Two to a felony of the fifth degree. The trial court expressly found that a period of community control sanctions would not adequately protect society from future crimes committed by Edelen and would demean the seriousness of the offense. The trial court further found that Edelen was not amenable to community control and that a prison sentence was consistent with the purposes of R.C. 2929.11. In addition to imposing a prison sentence on each count, the trial court ordered Edelen, to (1) engage in sex offender treatment and counseling while incarcerated (2) have no unsupervised contact with minors, (3) have any internet usage monitored, and (4) to not ingest or be injected with a drug of abuse and to submit to random drug testing. The sentencing order did not indicate whether the latter three orders were applicable to Edelen's term of incarceration or his post-release control or both. However, a review of the sentencing hearing shows the trial court advised Edelen that the orders were applicable to his post-release control. Regardless, the State concedes on appeal that no provision of the Ohio Revised Code authorized the trial court to impose these terms and conditions as part of Edelen's term of incarceration or his post-release control.

{¶24} Upon review of the relevant statutes, we agree with Edelen and the State that the statutes contain no provisions authorizing the trial court to include the terms and conditions Edelen challenges on appeal. Moreover, to the extent the conditions may apply to Edelen's term of incarceration or post-release control, such conditions are within the administrative purview of the Ohio Department of Rehabilitation and Corrections. *See generally* R.C. 5120.01, et seq.; Adm.Code 5120:1 et seq.; *see* Adm.Code 5120:1-16-01 et seq.; R.C. 2967.28(C)/(D)(1) (vesting the parole board with the responsibility of imposing post-release control sanctions), *but see* R.C. 2967.29(A) (permitting a trial court to enter into an agreement with the ODRC to cooperate with

the parole board to make decisions related to post-release control of offenders who return to court's territorial jurisdiction after serving a prison term).

{¶25} To the extent the challenged terms and conditions may constitute community control sanctions, we note that “when a prison term and community control are possible sentences for a particular felony offense, absent an express exception, the court must impose either a prison term or a community-control sanction or sanctions.” *Anderson*, 2015-Ohio-2089, at ¶ 31; *State v. Paige*, 2018-Ohio-813, ¶ 6 (same). A split sentence that includes both a prison term and a community control sanction is “prohibited in Ohio.” *Paige* at ¶ 6. Here, the trial court imposed a term of incarceration on both Count One and Count Two. Thus, the trial court had no authority to impose a community-control sanction as part of Edelen's sentence.

{¶26} Edelen's third assignment of error is sustained. Therefore, we reverse the portion of Edelen's sentence that ordered him to (1) engage in sex offender treatment and counseling while incarcerated, (2) have no unsupervised contact with minors, (3) have any internet usage monitored, and (4) to not ingest or be injected with a drug of abuse and to submit to random drug testing, and remand for the trial court to issue a sentencing order. *See* R.C. 2953.08(G)(2).

III.

{¶27} Edelen's first assignment of error is overruled, and his second and third assignments of error are sustained. The judgment of the Summit County Court of Common Pleas is affirmed in part, reversed in part, and remanded for further proceedings.

Judgment affirmed in part,
reversed in part,
and remanded.

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 equally to both parties.

JILL FLAGG LANZINGER
FOR THE COURT

HENSAL, P. J.
SUTTON, J.
CONCUR.

APPEARANCES:

ADAM M. VANHO, Attorney at Law, for Appellant.

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