

[Cite as *State v. Flint*, 2024-Ohio-4648.]

IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

|                      |   |                        |
|----------------------|---|------------------------|
| State of Ohio,       | : |                        |
| Plaintiff-Appellee,  | : | No. 24AP-314           |
| v.                   | : | (C.P.C. No. 24CR-515)  |
| Destanie R. Flint,   | : | (REGULAR CALENDAR)     |
| Defendant-Appellant. | : |                        |
| State of Ohio,       | : |                        |
| Plaintiff-Appellee,  | : | No. 24AP-315           |
| v.                   | : | (C.P.C. No. 21CR-3632) |
| Destanie R. Flint,   | : | (REGULAR CALENDAR)     |
| Defendant-Appellant. | : |                        |
| State of Ohio,       | : |                        |
| Plaintiff-Appellee,  | : | No. 24AP-316           |
| v.                   | : | (C.P.C. No. 21CR-2598) |
| Destanie R. Flint,   | : | (REGULAR CALENDAR)     |
| Defendant-Appellant. | : |                        |
| State of Ohio,       | : |                        |
| Plaintiff-Appellee,  | : | No. 24AP-317           |
| v.                   | : | (C.P.C. No. 20CR-4924) |
| Destanie R. Flint,   | : | (REGULAR CALENDAR)     |
| Defendant-Appellant. | : |                        |

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D E C I S I O N

Rendered on September 24, 2024

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**On brief:** *G. Gary Tyack*, Prosecuting Attorney, and *Paula M. Sawyers*, for appellee.

**On brief:** *Bellinger & Donahue*, and *Kerry M. Donahue*, for appellant.

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APPEALS from the Franklin County Court of Common Pleas

LUPER SCHUSTER, J.

{¶ 1} Defendant-appellant, Destanie R. Flint, appeals from multiple judgments of conviction and sentence of the Franklin County Court of Common Pleas. For the following reasons, the judgment appealed in case No. 24AP-314 is affirmed, and the judgments appealed in case Nos. 24AP-315, 24AP-316, and 24AP-317 are reversed.

### **I. Facts and Procedural History**

{¶ 2} In September 2021, Flint was convicted on three counts of theft in violation of R.C. 2913.02, all as fifth-degree felonies, in Franklin C.P. case Nos. 20CR-4924, 21CR-2598, and 21CR-3632. In each case, the trial court imposed a three-year period of community control, with a suspended 12-month prison sentence, to be served consecutively with the other cases, for a total prison term of three years. On April 18, 2024, the trial court revoked Flint's community control based on her probation violations, and it reinstated the above-outlined prison sentences. On the same day, in Franklin C.P. case No. 24CR-515, Flint was convicted of one count of possessing criminal tools in violation of R.C. 2923.24, a fifth-degree felony. In that case, the trial court imposed a prison sentence of 12 months, to be served concurrently to the prison sentences imposed in the other three cases.

{¶ 3} Flint timely appeals from the judgments in all four cases.

### **II. Assignment of Error**

{¶ 4} Flint assigns the following sole assignment of error for our review:

It was an error for the court to order three maximum consecutive sentences without making the findings necessary to impose maximum consecutive sentences.

### III. Discussion

{¶ 5} In Flint’s sole assignment of error, she alleges the trial court erred in imposing three maximum consecutive sentences without making the necessary findings to impose those sentences. The plaintiff-appellee, State of Ohio, concedes this assignment of error has merit, and we agree.

{¶ 6} Before discussing Flint’s challenge to the imposition of consecutive sentences,<sup>1</sup> we first address her appeal assigned case No. 24AP-314, which is an appeal from the trial court’s judgment in case No. 24CR-515. Although Flint has appealed from this judgment, she does not allege any error pertaining to that judgment. In that case, the trial court imposed a sentence to run concurrent with the sentences in the other three cases. As such, Flint does not allege any error pertaining to that judgment. Consequently, Flint’s sole assignment of error is overruled insofar as it relates to case No. 24AP-314.

{¶ 7} Flint’s three other appeals, in case Nos. 24AP-315, 24AP-316, and 24AP-317, each involve an appeal from the trial court’s imposition of consecutive sentences. An appellate court will not reverse a trial court’s sentencing decision unless the evidence is clear and convincing that either the record does not support the sentence or that the sentence is contrary to law. *State v. Chandler*, 10th Dist. No. 04AP-895, 2005-Ohio-1961, ¶ 10, citing *State v. Maxwell*, 10th Dist. No. 02AP-1271, 2004-Ohio-5660, ¶ 27, citing *State v. Comer*, 99 Ohio St.3d 463, 2003-Ohio-4165, ¶ 10. *See also State v. Marcum*, 146 Ohio St.3d 516, 2016-Ohio-1002, ¶ 1 (“an appellate court may vacate or modify a felony sentence on appeal only if it determines by clear and convincing evidence that the record does not support the trial court’s findings under relevant statutes or that the sentence is otherwise contrary to law”). “In determining whether a sentence is contrary to law, an appellate court must review the record to determine whether the trial court considered the appropriate

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<sup>1</sup> Although Flint’s assignment of error references the imposition of “maximum” sentences, she does not develop any argument relating to the length of the individual sentences. Further, we note that a trial court has full discretion to impose any sentence within the authorized statutory range, and it is not required to make any findings or give its reasons for imposing a maximum or more than minimum sentence. *State v. Persinger*, 2d Dist. No. 2024-CA-10, 2024-Ohio-3331, ¶ 6. Therefore, we focus our attention on her challenge to the imposition of consecutive sentences.

statutory factors, made the required findings, gave the reasons for its findings, and properly applied the statutory guidelines.” *Maxwell* at ¶ 27, citing *State v. Altalla*, 10th Dist. No. 03AP-1127, 2004-Ohio-4226, ¶ 7.

{¶ 8} Pursuant to R.C. 2929.14(C)(4), the trial court may exercise its discretion to impose consecutive sentences for multiple prison terms. *State v. Guy*, 10th Dist. No. 17AP-322, 2018-Ohio-4836, ¶ 56, citing *State v. Sergeant*, 148 Ohio St.3d 94, 2016-Ohio-2696, ¶ 16. Before imposing consecutive sentences, a court must make certain findings. 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.

{¶ 9} Thus, pursuant to R.C. 2929.14(C)(4), in order to impose consecutive terms of imprisonment, a trial court is required to make at least three distinct findings: (1) consecutive sentences are necessary to protect the public from future crime or to punish the offender; (2) consecutive sentences are not disproportionate to the seriousness of the offender’s conduct and to the danger the offender poses to the public; and (3) one of the

subsections (a), (b), or (c) applies. *State v. Price*, 10th Dist. No. 13AP-1088, 2014-Ohio-4696, ¶ 31, citing *State v. Bonnell*, 140 Ohio St.3d 209, 2014-Ohio-3177.

{¶ 10} Here, based on Flint’s probation violations, the trial court reinstated the previously suspended 12-month prison sentences in case Nos. 20CR-4924, 21CR-2593, and 21CR-3632, and ordered those sentences to run consecutively to each other, for an aggregate prison sentence of three years. But the trial court imposed those consecutive sentences without making the necessary findings pursuant to R.C. 2929.14(C)(4). Accordingly, we sustain Flint’s assignment of error insofar as it concerns the judgments appealed in case Nos. 24AP-315, 24AP-316, and 24AP-317.

#### **IV. Disposition**

{¶ 11} Having overruled Flint’s sole assignment of error insofar as it relates to the judgment appealed in case No. 24AP-314, that judgment is affirmed. But having sustained her sole assignment of error insofar as it relates to the judgments appealed in case Nos. 24AP-315, 24AP-316, and 24AP-317, we reverse those judgments, and we remand those matters to the Franklin County Court of Common Pleas for further proceedings consistent with law and this decision.

*Judgment appealed in case No. 24AP-314 affirmed;  
judgments appealed in case Nos. 24AP-315, 24AP-316, and 24AP-317 reversed;  
causes remanded.*

EDELSTEIN and LELAND, JJ., concur.

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