

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NOS. C-250338
		C-250358
Plaintiff-Appellee,	:	TRIAL NOS. B-2501221
		B-2500715-G
vs.	:	
TYREESE GOODING,	:	
		<i>JUDGMENT ENTRY</i>
Defendant-Appellant.	:	

NESTOR, Judge.

This court sua sponte removes this cause from the regular calendar and places it on the court's accelerated calendar, and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

These consolidated appeals concern two felony cases. In the case numbered B-2501221, defendant-appellant, Tyreese Gooding, was sentenced to an indefinite term of four to six years in prison for robbery in violation of R.C. 2911.02(A)(2), a felony of the second degree. In the case numbered B-2500715-G, Gooding was sentenced to identical, nine-month concurrent terms for forgery in violation of R.C. 2913.31(A)(3), a felony of the fourth degree, and theft in violation of R.C. 2913.02(A)(3), a felony of the fifth degree. The sentences in both cases were ordered to run consecutively to one another. Gooding raises three assignments of error challenging various aspects of his sentences. The State concedes each of the three alleged errors in turn.

First, Gooding argues that the trial court failed to make the required statutory findings to support consecutive sentences, both at the sentencing hearing and in the

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judgment entry of sentence. Ohio law advances a general presumption in favor of concurrent prison terms. *See State v. Bonnell*, 2014-Ohio-3177, ¶ 23; R.C. 2929.41(A). To justify consecutive sentences, the trial court must make the findings outlined in R.C. 2929.14(C)(4). The record indicates these findings were not announced at sentencing, nor were they incorporated into the judgment entry of sentence despite the trial court running the sentence in the case numbered B-2501221 consecutively to the sentence in the case numbered B-2500715-G. *See Bonnell* at ¶ 29. The error must be corrected via resentencing and not via a nunc pro tunc entry due to the trial court's failure to announce the findings in open court. *See State ex rel. Fogle v. Steiner*, 74 Ohio St.3d 158, 164 (1995) (observing, "nunc pro tunc entries are limited in proper use to reflecting what the court actually decided, not what the court might or should have decided or what the court intended to decide").

Second, Gooding maintains that the sentence in the judgment entry on the robbery count differs from that announced in open court. In order to comport with due process, the sentence commemorated in the judgment entry must coincide with what was stated in open court in the defendant's presence. *State v. Bryan*, 2019-Ohio-2980, ¶ 12 (5th Dist.), quoting *State v. Sullivan*, 2015-Ohio-4845, ¶ 6 (1st Dist.). Here, the transcript reveals that the trial court announced a definite prison term of four years on the robbery count in the case numbered B-2501221. The judgment entry, however, imposed an indefinite term of four to six years on that count in accordance with the Reagan Tokes Law. This error, too, must be corrected via resentencing. *See Steiner* at 164.

Finally, Gooding contends that the trial court failed to administer the required advisements on the indefinite term for second-degree robbery in accordance with the Reagan Tokes Law. R.C. 2929.19(B)(2)(c) sets forth five notifications that a trial court

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must administer to the defendant at the sentencing hearing prior to imposing an indefinite term of imprisonment on a qualifying felony offense. *See State v. Brunson*, 2025-Ohio-2057, ¶ 26 (1st Dist.). The transcript indicates that the trial court failed to orally administer these statutory advisements prior to imposing an indefinite term on the robbery count. The error must be corrected via resentencing. *See id.* at ¶ 27-28.

One final error was acknowledged in the State's appellate brief. At the May 13, 2025 hearing, Gooding entered a guilty plea on the forgery count in the case numbered B-2500715-G, and the trial court announced that the theft count in that case was dismissed per the plea agreement. Thereafter, at the June 10, 2025 hearing, the court pronounced sentence on both the forgery and theft counts. As stated, the June 16, 2025 judgment entry of sentence imposed nine-month, concurrent terms of incarceration on the forgery and theft counts. On October 30, 2025, the trial court issued an entry dismissing the theft count. On remand, the trial court is instructed to sort out this discrepancy and clearly dispose of the theft count. *Compare State v. Pavlik*, 2017-Ohio-356, ¶ 7 (9th Dist.) (resentencing required to make substantive change to a judgment).

The assignments of error are sustained. We reverse the sentences imposed by the trial court under both trial numbers and remand the matter for the court to conduct a new sentencing hearing and issue a new judgment entry of sentence in accordance with the law and this judgment entry.

The court further orders that 1) a copy of this Judgment constitutes the mandate, 2) the mandate be sent to the trial court for execution under App.R. 27, and 3) costs shall be taxed under App.R. 24.

BOCK, P.J., and **MOORE, J.**, concur.

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To the clerk:

Enter upon the journal of the court on 12/5/2025 per order of the court.

By: *Ginger S. Bock*
Administrative Judge