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

STATE OF OHIO,	:	APPEAL NOS. C-250523 C-250524 C-250525
Plaintiff-Appellee,	:	TRIAL NOS. B-2500058 B-2502276 B-2502756
vs.	:	
ZACHARY SICURELLA,	:	
Defendant-Appellant.	:	*JUDGMENT ENTRY*
	:	

BOCK, 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.

After entering guilty pleas in August 2025, the trial court convicted defendant-appellant Zachary Sicurella of having a weapon while under a disability in the case numbered B-2500058, aggravated possession of drugs in the case numbered B-2502276, and possession of a fentanyl-related compound and resisting arrest in the case numbered B-2502756. The trial court sentenced him to concurrent three-year terms of community control for each offense and ordered him to successfully complete the River City Correctional Center Gun Program.

Within a month of the trial court's imposing his sentences, the State charged Sicurella with violating the conditions of his community control. After a hearing on the charges, during which Sicurella entered no-contest pleas, the trial court revoked Sicurella's community control and sentenced him to an aggregate prison term of three years and awarded jail-time credit.

Sicurella appealed the revocation of his community control. His first appointed appellate counsel filed a no-error brief. After independently reviewing the record, this court identified nonfrivolous issues involving, among other things, Sicurella's due-process rights at his revocation hearing. Thus, this court appointed new counsel, who now raises six assignments of error for our review.

In his first two assignments of error, Sicurella argues that the trial court (1) violated his due-process rights during the revocation hearing, and (2) failed to ensure that he entered no-contest pleas to the alleged community-control violations knowingly, intelligently, and voluntarily. The State concedes error, acknowledging that Sicurella did not validly waive his right to either a preliminary probable-cause determination or his right to a final revocation hearing at which he could present evidence and cross-examine adverse witnesses. The State further concedes that Sicurella did not validly enter no-contest pleas because the trial court failed to determine whether he understood the effect of those pleas and whether it was his intention to admit the alleged violations by pleading no contest.

A defendant is entitled to minimum due-process protection at a community-control-revocation hearing. Those protections include a preliminary hearing to determine whether probable cause exists to believe that the defendant violated the conditions of community control and a final hearing to determine whether community control should be revoked. *State v. Harmon*, 2008-Ohio-6039, ¶ 7 (2d Dist.), citing

Gagnon v. Scarpelli, 411 U.S. 778 (1973). At the final revocation hearing, due process requires that the defendant receive (1) written notice of the alleged violations, (2) disclosure of the evidence against him, (3) an opportunity to be heard and present evidence, (4) an opportunity to confront and cross-examine adverse witnesses, (5) a neutral and detached hearing body, and (6) a written statement setting forth the basis for revocation. *Id.*, citing *Gagnon* at 786. A waiver of due-process rights must be made knowingly, intelligently, and voluntarily. *See State v. Vordenberge,* 148 Ohio App.3d 488, 492 (1st Dist. 2002).

Because Sicurella did not object to the alleged due-process violations, we review only for plain error. *State v. Osume*, 2015-Ohio-3850, ¶ 13 (1st Dist.). To establish plain error, Sicurella must demonstrate that an error occurred, the error was obvious, and there is a reasonable probability that, but for the error, the outcome of the proceeding would have been different. *State v. Samueal*, 2023-Ohio-3322, ¶ 17 (1st Dist.). Nevertheless, plain errors that seriously affect the fairness or integrity of judicial proceedings should be recognized. *United States v. Olano*, 507 U.S. 725, 736 (1993), quoting *United State v. Atkinson*, 297 U.S. 157, 160 (1936); *see State v. Mosier*, 2025-Ohio-4417, ¶ 25 (11th Dist.) (finding plain error where a defendant's due-process rights are violated as "such a circumstance has a direct bearing on the fairness of a judicial proceeding.")

Here, the trial court failed to determine whether Sicurella understood his due-process rights or whether he was knowingly, intelligently, and voluntarily waiving his rights to a probable-cause determination and a full revocation hearing, at which he could present evidence and cross-examine adverse witnesses. Nor did the trial court determine whether Sicurella understood the effect of a no-contest plea or whether it was his intention to enter such pleas to the alleged community-control violations.

Indeed, Sicurella's statements at the subsequent sentencing hearing, which disputed the factual basis for the alleged violations, suggest that admitting those violations may not have been his intention.

Because Sicurella was deprived of his due-process rights to be heard and to meaningfully contest the alleged community-control violations, and because the record fails to demonstrate that he knowingly, intelligently, and voluntarily waived those rights or entered no-contest pleas, we sustain Sicurella's first and second assignments of error. Accordingly, we reverse the trial court's judgments revoking Sicurella's community control and imposing prison terms, vacate his no-contest pleas, and remand this cause for a new community-control-revocation hearing conducted in accordance with due process. Our disposition of Sicurella's first two assignments of error render his remaining assignments of error moot, and we decline to address them. *See* App.R. 12(A)(1)(c).

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.

KINSLEY, P.J., and **ZAYAS, J.,** concur.

To the clerk:

Enter upon the journal of the court on 10/28/2026.

Pursuant to App.R. 30, the clerk is directed to send all parties, or their counsel if represented, a copy of the court's judgment and note such action on the docket.

By: Jennifer A. Kinsley
Administrative Judge