



LORAIN COUNTY COURT OF COMMON PLEAS
LORAIN COUNTY, OHIO
JOURNAL ENTRY
Hon. D. Chris Cook, Presiding Judge

Date May 1, 2026 Case No. 25CR114814
25CR114815

STATE OF OHIO
Plaintiff

Paul Griffin
Plaintiff's Attorney

VS

ANTONIO ZACHARIAH COOK
Defendant

J. Anthony Rich
Defendant's Attorney

This matter is before the Court on the State's Sentencing Memorandum, filed March 20, 2026, the Defendant's Sentencing Memorandum, filed April 13, 2026, and argument made before the Court on March 12, 2026.

This Court requested the parties brief or argue three issues attendant to the Defendant's sentencing in this case, to wit:

- 1) WHERE AN OFFENDER IS CHARGED WITH BOTH A ONE-YEAR AND THREE-YEAR FIREARM SPECIFICATION ATTACHED TO AN OFFENSE, WHO DETERMINES WHICH SPEC TO IMPOSE, THE STATE OR THE COURT
- 2) WHERE THE COURT IMPOSES A FIREARM SPECIFICATION WHICH REQUIRES IMPOSITION OF A PRISON SENTENCE ON THE PREDICATE OFFENSE, IS SERVICE OF THE SENTENCE ON THE PREDICATE OFFENSE "MANDATORY"
- 3) WHERE AN OFFENDER IS CHARGED WITH TWO SEPARATE, INDEPENDENT INDICTMENTS, BOTH WITH CHARGES THAT HAVE AN ATTACHED FIREARM SPEC, AND THE OFFENSES CONSTITUTE SEPARATE TRANSACTIONS NOT SUBJECT TO MERGER, MUST THE COURT RUN THOSE CHARGES AND FIREARM SPECS CONSECUTIVELY



The Court rules as follows:


- 1) The State "elects" which firearm spec to impose.
- 2) The sentence imposed on the predicate offense is "mandatory," must be served *in toto*, and is not subject to judicial release, earned credits, or any other early release mechanisms.
- 3) The Court must impose firearm specs and the predicate offenses they are attached to consecutively where the offenses constitute separate and distinct acts or transactions not subject to merger.

Sentencing is currently set for Monday, May 4, 2026, at 10:00 a.m.

IT IS FURTHER ORDERED that the Defendant may elect to:

- A) Maintain his current plea of guilty.
- B) Withdraw his plea of guilty and plead no-contest in order to preserve any sentencing issues for appeal.
- C) Withdraw his plea of guilty and set the matter for trial.

IT IS SO ORDERED. See Judgment Entry.



Judge D. Chris Cook

cc: Griffin, Asst. Pros. Atty.
Rich, Esq.



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Plaintiff Plaintiff's Attorney

VS

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I. INTRODUCTION

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II. PROCEDURAL HISTORY

The following timeline of events occurred *seriatim*.

11/20/2025 The Defendant is indicted on Case No. 25CR114814, on three counts.

COUNT ONE: **Aggravated Robbery** (F1), with a three-year and one-year Firearm Specification

COUNT TWO: **Kidnapping** (F1), also with a three-year and one-year Firearm Specification

COUNT THREE: **Theft** (M1)

On the same day, the Defendant was also indicted on Case No. 25CR114815, on two counts.

COUNT ONE: **Aggravated Robbery** (F1), with a three-year and one-year Firearm Specification

COUNT TWO: **Theft** (M1)

3/2/2026 The Defendant pleads guilty to both indictments. At the plea hearing, the parties address whether or not a prison sentence must be imposed on the actual predicate offenses (not the firearm specifications), and if so, if any such prison sentence is a "mandatory" term such that judicial release, earned credits, or other early release mechanisms are not available.

3/12/2026 The parties argue the issue of whether or not the Court must sentence the Defendant to multiple, consecutive firearm specifications contained in the two, separate indictments.

3/23/2026 The Court Orders the parties to brief the issue on how the Court must sentence the Defendant relative to the multiple firearm specifications.

5/4/2026 The Defendant is scheduled to be sentenced on May 4, 2026.



III. ANALYSIS

- A) WHERE AN OFFENDER IS CHARGED WITH BOTH A ONE-YEAR AND THREE-YEAR FIREARM SPECIFICATION ATTACHED TO AN OFFENSE, WHO DETERMINES WHICH SPEC TO IMPOSE, THE STATE OR THE COURT

This issue raises yet another question in the seemingly endless string of unanswered, muddled, almost unintelligible area of Ohio's firearms sentencing schemes contained in Chapter 2929.14, *et seq.*, of the Ohio Revised Code.

Statutes that are so convoluted and poorly drafted that it is not uncommon for multiple appellate courts throughout the state to disagree on statutory interpretation and interplay.¹

Two recent cases, *State v. Holliman*, 2025-Ohio-1187, (8th Dist.), and *State v. Crenshaw*, 2026-Ohio-186, (8th Dist.), both stand for the proposition that the Court has discretion to impose either a one-year firearm specification or a three-year specification, as opposed to the State having the ability to "select."

Fortunately for us, this issue is currently pending before the Ohio Supreme Court in *State v. Holliman*, 2025-Ohio-0670, and will be resolved in short order.

In the meantime, it is this Court's position, *contra Holliman* and *Crenshaw* above, that the State has the authority to select which firearm to impose in these situations. This position is supported by a similar, but not identical, situation – merger.

The law is clear that where a defendant is convicted of two (or more) offenses that are subject to merger, it is the State, not the court, that elects upon which charge the court must sentence on.

The General Assembly has made clear that **it is the state that chooses which of the allied offenses to pursue at sentencing**, and it may choose any of the allied offenses. * * *

State v. Whitfield, 2010-Ohio-2, ¶ 20, emphasis added.

It seems difficult, if not irreconcilable, to reach a conclusion not in concert with merger when it comes to selecting which firearm specifications to sentence on. After all, they too merge, and it seems to this Court that if the State elects on which predicate offense the court must sentence on, so too should the State elect on the merged firearm specs.

¹ See, for example, *State v. Bollar*, 2022-Ohio-4370; *State v. Logan*, 2025-Ohio-1772.



B) WHERE THE COURT IMPOSES A FIREARM SPECIFICATION WHICH REQUIRES IMPOSITION OF A PRISON SENTENCE ON THE PREDICATE OFFENSE, IS SERVICE OF THE SENTENCE ON THE PREDICATE OFFENSE "MANDATORY"

Another unanswered question in the universe of felony sentencing with firearm specifications. This question is a bit more complex than the one above, and there are no appellate or Supreme Court decisions that answer it. No doubt, this issue will likewise work its way up to the high court, but for now, this Court, and other Ohio trial courts, must create *interstitial* law.

Here is the situation, simplified, using one of the Defendant's cases.

In Case No. 25CR114815, recall that the Defendant is charged with aggravated robbery with both a one-year and three-year firearm spec. We answered the first question above, who selects which firearm spec to sentence on, and we know the answer. The State selects, and the state elects the three-year spec.²

Ok, so we now come to the aggravated robbery charge, an F1, with a sentencing range of three to 16 ½ years in prison, which as noted, requires imposition of a prison sentence. *Hypothetically*, we imposed four to six years on the aggravated robbery charge, consecutive to the three-year firearm spec, for a total sentence of seven to nine years.

The Defendant serves his mandatory, three-year firearm specification, then serves six months of the aggravated robbery charge. As long as the Defendant does not have a prior F1 or F2 conviction,³ and there are no other provisions in the Revised Code making service of his sentence for aggravated robbery mandatory, he is eligible for judicial release or other early release mechanisms after serving six months of his sentence.⁴

Or is he?

Our Defendant, and others similarly situated, that have a firearm spec attached to their charge of aggravated robbery (or other charge), may or may not be eligible for judicial or early release, good time credit, or some other early release mechanism.

² Shocker, I know.

³ See: R.C. 2929.13(F)(6).

⁴ See: R.C. 2929.20(C)(1)(b).



We know that with no other provisions making service of the Defendant's hypothetical four to six-year sentence for aggravated robbery mandatory, that he would be eligible for judicial release after serving six months of his sentence.

But what effect, if any, does the fact the he *also* had a mandatory three-year firearm spec attached to the aggravated robbery charge that he had to serve consecutive and prior to the four to six-year sentence have on his prospects for judicial (or early) release? Put another way, because of the firearm spec, is service of the sentence for aggravated robbery mandatory as well?

The State at oral argument on this issue concedes that this is an unanswered question, but advocates for the position that any sentence imposed for the aggravated robbery conviction is "mandatory" because of the attached firearm spec.

Not surprisingly, the Defendant argues the opposite, that is, that while service of the firearm spec itself is mandatory, service of the sentence imposed upon the predicate offense, in this example, the aggravated robbery charge, is not.

So, which is it?

The only case that even comes close to answering this question is *Bollar* - close, but no cigar.

Bollar clarifies the inter-district conflict reached by numerous Ohio appellate courts regarding the requirement that the trial court impose a prison sentence on a predicate offense where an offender is also convicted of a firearm spec. In such a situation, like here, the trial court must impose an actual prison sentence for the Defendant's conviction for aggravated robbery.

But that is all *Bollar* says.

Contrary to some authorities who misread the *Bollar* decision to graft language or a holding into it from whole cloth, *Bollar* does not mandate that the prison sentence imposed on the predicate offense, here, aggravated robbery, is mandatory, only that a prison sentence must be imposed.

Put another way, *Bollar* mandates that our Defendant, and others, are not eligible for a community control sanction after service of the firearm spec, that they must be sentenced to prison. But *Bollar* does not reach the question of whether that sentence is mandatory and thus, must be served in full.



So, how do we resolve this conundrum?

With caution and the most conservative approach in order to ensure that if the Defendant wishes to maintain his plea of guilty or plead no-contest, he does so cognizant of the worst-case scenario. And that, obviously, is to assume that any sentence imposed upon the predicate offense, aggravated robbery, is a mandatory sentence and must be served in its entirety.

To that end, should the Defendant wish to maintain his guilty plea or withdraw it and plead no-contest, he will be advised that any prison sentence imposed upon the aggravated robbery charge in this case, and the aggravated robbery charge in the second case, Case No. 25CR114814, are mandatory sentences and must be served in their entirety.

C) WHERE AN OFFENDER IS CHARGED WITH TWO SEPARATE, INDEPENDENT INDICTMENTS, BOTH WITH CHARGES THAT HAVE AN ATTACHED FIREARM SPEC, AND THE OFFENSES CONSTITUTE SEPARATE TRANSACTIONS NOT SUBJECT TO MERGER, MUST THE COURT RUN THOSE CHARGES AND FIREARM SPECS CONSECUTIVELY

This question is now the third in one case about how an offender charged with firearm specifications must be sentenced. And once again, there is no clear answer, because there is no similar case on point.

So why does the State argue that this Court must impose the firearm specifications on Indictment #1 and Indictment #2 consecutively?⁵ Because of its analysis of, and reliance upon, R.C. 2929.14(C)(1)(a), and two out-of-district cases, *State v. Penn*, 2022-Ohio-4801, (5th Dist.), and *State v. Adkins, et al.*, 2021-Ohio-1294, (8th Dist.).⁶

R.C. 2929.14(C)(1)(a) reads,

Subject to division (C)(1)(b) of this section, if a mandatory prison term is imposed upon an offender pursuant to division (B)(1)(a) of this section for having a firearm on or about the offender's person or under the offender's control while committing a felony, if a mandatory prison term is imposed upon an offender pursuant to division (B)(1)(c) of this section for committing a felony specified in that division by discharging a firearm from a motor vehicle, or if both types of mandatory prison terms are imposed, the offender shall serve any mandatory prison term imposed under either division consecutively to any other mandatory prison term

⁵ The issue of which F/A spec to impose, the one-year or three-year spec, will be discussed below.

⁶ It appears that neither the Ninth District Court of Appeals nor the Ohio Supreme Court has addressed this issue.



imposed under either division or under division (B)(1)(d) of this section, consecutively to and prior to any prison term imposed for the underlying felony pursuant to division (A), (B)(2), or (B)(3) of this section or any other section of the Revised Code, and consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.

It goes without saying that this statutory subsection, like most of 2929.14, is almost unintelligible. The never-ending cross references, the exceptions to exceptions to exceptions, and the convoluted language is infuriatingly difficult to comprehend.

The simplest take-away that this Court can glean from this section is this: when an offender is sentenced to a firearm specification that is based upon the use of body armor, the R.C. 2941.1411 spec, or discharging a firearm from a motor vehicle spec, R.C. 2941.146, those firearm specs must be imposed and served consecutively to any other firearm specification previously or subsequently imposed.

In the case at bar, the Defendant is not charged with either of these specifications, he is charged with the having or controlling a firearm (R.C. 2941.141), the one-year spec, and brandishing a firearm (R.C. 2941.145), the three-year spec. And importantly, in Indictment #1, these two specs are attached to Aggravated Robbery and Kidnapping charges.

In Indictment #2, these two specs are attached to a charge of Aggravated Robbery.

Accordingly, this Court finds that application of R.C. 2929.14(C)(1)(a) to these cases may be inapplicable.

But what about R.C. 2929.14(B)(1)(g), a statute that might also be in play and is cited in both cases referenced by the State?

R.C. 2929.14(B)(1)(g)⁷ reads,

If an offender is convicted of or pleads guilty to two or more felonies, if one or more of those felonies are aggravated murder, murder, attempted aggravated murder, attempted murder, aggravated robbery, felonious assault, or rape, and if the offender is convicted of or pleads guilty to a specification of the type described under division (B)(1)(a) of this section in connection with two or more of the felonies, the sentencing court shall impose on the offender the prison term specified under division (B)(1)(a) of this section for each of the two most serious

⁷ This Court has previously found R.C. 2929.14(B)(1)(g) unconstitutional, but nevertheless addresses it for purpose of this discussion. See: *State v. Stewart*, Lorain County Court of Common Pleas, Case No. 24CR111313.



specifications of which the offender is convicted or to which the offender pleads guilty and, in its discretion, also may impose on the offender the prison term specified under that division for any or all of the remaining specifications.

To be fair, the State does not directly argue that this subsection of R.C. 2929.14 is applicable. And, this makes sense as the Defendant here is charged with only one of the predicate offenses, Aggravated Robbery, in each indictment. As such, despite being cited in the *Penn* and *Adkins* cases, it is inapplicable herein.⁸

So, let us discuss *Penn* and *Adkins*. But first, a note about the import of decisions from sister appellate districts.

While it is not improper for a trial court to rely on an appellate decision from another district as *persuasive* authority, such a decision, whether reported or not, is not *controlling authority*.” *Stapleton v. Holstein* (1998), 131 Ohio App.3d 596, 598, (1998); *State v. Dovangpraseuth*, 2006-Ohio-1533, ¶ 36 (10th Dist.).

And, “. . . another appellate district's decision is persuasive authority only and is not binding upon this appellate district.” See *Boatwright v. Penn–Ohio Logistics*, 2011–Ohio–1006, ¶ 31 (7th Dist.); *Ellington v. JCTH Holdings*, 2015-Ohio-840, (7th Dist.).

Accordingly, in this Court's view, not only are *Penn* and *Adkins* inapplicable as they are factually and legally distinguishable, as will be discussed below, they are not controlling authority in the Ninth District.

STATE v. PENN

In *State v. Penn*, 2022-Ohio-4801, (5th Dist.), similar to the case at bar, the defendant was indicted in two separate, unrelated cases, on the same day. In Case No. 21-CRI-060, Penn was charged with aggravated possession of drugs, CCW, and OVI. The charges of aggravated possession of drugs and CCW both contained specifications.

In the second indictment, Case No. 21-CRI-059, Penn was charged with aggravated possession of drugs and CCW, with specifications on both counts.

Importantly, thereafter, the State moved for joinder of the two indictments, which was granted. Penn ultimately plead guilty to all counts and specs. The trial court sentenced Penn on each of the two cases, ran the firearm specs consecutive to their attached, underlying charges, but ran the sentences (including the firearm specs) from the two separate cases concurrent to each other.

⁸ For an in-depth analysis of R.C. 2929.14(B)(1)(g) from the Ninth District Court of Appeals, see: *State v. Rouse*, 2018-Ohio-3266, (9th Dist.) & *State v. Miller*, 2023-Ohio-1466, (9th Dist.).



The State appealed.

In a garbled, convoluted analysis, the Fifth District agreed with the State and remanded the case to the trial court with instructions to impose the firearm specifications from the two separate cases consecutively.

Just like this Court initially felt, the trial judge in *Penn* did not believe he had the authority to impose the firearm specs from two, unrelated cases, consecutively. The Fifth District disagreed, reasoning that since the offenses were separate and distinct crimes, imposition of consecutive sentences for the firearm specs was mandated.

If the felonies and attendant firearm specifications were committed separately, then the trial court must follow the default rule set forth in R.C. § 2929.14(C)(1)(a), which requires mandatory consecutive service of all firearm specifications.

Penn, at ¶ 27.

The Fifth District continued,

Therefore, the trial court was required to impose consecutive service for the two firearm specifications - one for each case. The trial court did not have discretion to order the two sentences for the firearm specifications concurrent to each other across two cases.

Penn, at ¶ 28.

Regardless, this decision seems persuasive to this Court, as the facts and legal issues are almost identical – almost, but not quite.

Recall that in *Penn*, at the request of the State, the trial court joined, that is, consolidated, the two separate, individual indictments. As such, the two indictments really became one. And, this Court agrees that where multiple charges with firearm specs that constitute separate acts or transactions are contained *in the same indictment*, multiple firearm specifications must be served consecutively.

Moreover, in some situations, for example when there are two or more charges of aggravated murder, murder, aggravated robbery, rape, or felonious assault, with firearm specs, the court must impose the two most serious firearm specs to run consecutively, even where one (or more) of those specs is merged. R.C. 2929.14(B)(1)(g); *State v. Bollar*, 2022-Ohio-4370.



Here, however, there is no joinder, no consolidation. Thus, there are two, truly separate, unrelated indictments, and nothing in the Revised Code, and no case, says that the firearm specification in these two indictments must be imposed consecutively.

Or is there?

STATE V. ADKINS, ET AL.

In *State v. Adkins, et al.*, 2021-Ohio-1294, (8th Dist.), a consolidated appeal, the facts and circumstances are again different than here. First, *Adkins* deals with two defendants, each charged by way of one indictment. Adkins was charged in Case No. CR-18-635599-A and plead to seven felonies, four of which had firearms specs attached. The trial court imposed the four firearm specifications, but did not order them all to run consecutively.

And, also, in *Adkins*, Trowbridge was charged in Case No. CR-18-635599-B and plead to twelve felonies, five of which had firearm specs attached. The trial court imposed the five firearm specifications, but, similarly, did not order them all to run consecutively.

The State appealed the sentences in both cases, which as noted, were consolidated at the appellate level. It was the State's position in the trial court, and on appeal, that the firearm specs should all have been imposed consecutively.

The state argues the trial court should have imposed consecutive prison terms on Adkins and Trowbridge for firearm specifications attendant to all of their felony convictions because they were committed as separate acts or transactions. * * *

Adkins, at ¶ 16.

Ultimately, the Eighth District agreed. It noted,

If the felonies and attendant firearm specifications were committed separately, then the trial court must follow the default rule set forth in R.C. 2929.14(C)(1)(a), which requires mandatory consecutive service of all firearm specifications.

Id. at ¶ 23.

The Eighth continued,

The trial court failed to comply with this mandatory sentencing provision when it failed to impose consecutive prisons terms on all firearm specifications even though it found they were committed as separate transactions.



Id. at ¶ 24.

Similar to this Court's view of the *Penn* case, it is difficult to argue with the logic or results of the *Adkins* case. But, as the facts in *Penn* are distinguishable from the facts of this case (joinder in *Penn*, no joinder here), *Adkins* too is distinguishable.

Recall that in *Adkins*, Adkins and Trowbridge plead guilty to one indictment each. In other words, all of the charges and attached firearms specs they faced were in a single, respective indictment for each defendant. The charges they both faced in their respective indictments contained incidents committed as separate transactions. As such, the firearm specs in each of their individual indictments should have been ordered to run consecutively to each other.

But such is not the case here.

In this matter, like in *Penn*, the Defendant, Cook, is charged with two, separate, individual indictments, but, *they have not been joined*.

And, unlike the situation in *Adkins*, where the two defendants, Adkins and Trowbridge, where facing only one indictment each, Cook has two.

Put another way, if this Court were to have joined and consolidated Cook's two indictments (like in *Penn*), then consecutive imposition of his multiple firearm specs would be required. Or, if all of the charges Cook is facing were contained in just one indictment (like the indictments the two defendants in *Adkins* faced), then again, consecutive imposition of the specs would be mandated.

But instead, Cook is facing two, separate, unrelated indictments that have not been joined, and nothing in R.C. 2929.14 or the case law mandates that the firearm specs in these two, unjoined, unrelated indictments, must be served consecutively.

Or does it?

DOES THE OHIO SUPREME COURT'S DECISION IN *STATE v. BEATTY*⁹ GIVE GUIDANCE

In a relatively recent decision, the Ohio Supreme Court (yet again) addressed Ohio's sentencing scheme regarding the imposition of multiple firearm specifications. The sole dispute in the *Beatty* case was whether or not additional firearm specifications imposed above and beyond the first two required by R.C. 2929.14(B)(1)(g) "may or must run consecutively." *Id.* at ¶ 14.

⁹ 2024-Ohio-5684.



As discussed above, this subsection of the statute requires consecutive imposition of the two most serious firearm specs when the offender is convicted of certain serious felonies, to wit: aggravated murder, murder, aggravated robbery, rape, or felonious assault. It is an exception to one of the more straightforward rules in Ohio's criminal-sentencing scheme that, "a prison term . . . shall be served concurrently with any other prison term unless an exception applies . . ." *Id.*, at ¶ 1.

The Supreme Court answered the question in *Beatty* in the negative, that is, it determined that "discretionary prison terms for firearm specifications may not run consecutively . . . discretionary prison terms for firearm specifications must be served concurrently with other prison terms." *Id.*, *syllabus*.

Ok, but how is this germane here? After all, the Court and both parties agree that R.C. 2929.14(B)(1)(g) is not in play. This case matters because of some very important language in the decision.

In analyzing R.C. 2929.14(B)(1)(g), and the imposition of multiple firearm specs, the Supreme Court observed,

Thus, if an offender is convicted of a group of offenses and firearm specifications that were all part of the same transaction, the trial court must impose one prison term for the firearm specifications and it must not impose prison terms for any other firearm specifications. **But if any of the offenses is a serious felony such as murder or felonious assault, the trial court *must* impose prison terms for two of the firearm specifications and it *may* impose prison terms for any remaining firearm specifications. * * ***

Id. at ¶ 10, emphasis added.

So, what is the takeaway from this paragraph and why is it applicable here? Let us ask and answer a different question.

IF R.C. 2929.14(C)(1)(A) REQUIRES CONSECUTIVE IMPOSITION OF FIREARMS SPECIFICATIONS *IN ALL SITUATIONS* WHERE THE OFFENSES ARE NOT PART OF THE SAME TRANSACTION, THEN WHY DID THE GENERAL ASSEMBLY ADOPT R.C. 2929.14(B)(1)(g) WHICH CARVES OUT AN EXCEPTION *FOR ONLY CERTAIN OFFENSES* WITH FIREARM SPECIFICATIONS TO BE SERVED CONSECUTIVELY

In the case at hand, the Defendant, Cook, was convicted of two separate and distinct, individual indictments, each which contained firearms specs. The charges in these two indictments do not constitute a single transaction, thus imposition of concurrent



sentences is not mandated. In other words, this Court could, if it made the proper findings, order the sentences imposed for the charges and firearm specs in both indictments to run consecutively – but it is not required to do so under this subsection.

And how do we know this?

Because R.C. 2929.14(B)(1)(g) tells us when the trial court *must* impose multiple firearm specifications consecutively, regardless of the whether the charges constitute a single transaction or not, and regardless of whether they were merged.¹⁰

This statutory subsection is clear, as are the numerous cases that have interpreted it. It is only when an offender is convicted of certain charges, to wit: aggravated murder, murder, aggravated robbery, rape, or felonious assault, *must* the trial court impose consecutive service of multiple firearm specifications.

So, therein lies the conundrum.

If the State's interpretation of R.C. 2929.14(C)(1)(a) is correct, that it mandates the imposition of consecutive firearms specs attached to additional offenses not contemplated by R.C. 2929.14(B)(1)(g), as we have here, then does not R.C. 2929.14(C)(1)(a) render R.C. 2929.14(B)(1)(g) superfluous?

In other words, if R.C. 2929.14(C)(1)(a) requires the imposition of consecutive firearm specs anytime the offenses they are attached to constitute separate and distinct transactions, regardless of the charges, then why do we need R.C. 2929.14(B)(1)(g)?

The answer is, we would not.

So, can we harmonize these two statutory subsections of R.C. 2929.14? It is axiomatic that when interpreting statutory construction and the interplay of statutes, the courts must give deference to the statutory language, when clear, and read statutes in harmony with each other. On this issue, the Ohio Supreme Court has consistently noted,

A rule of statutory interpretation is that statutory provisions are to be construed together "and the Revised Code be read as an interrelated body of law." * * *
'This court in the interpretation of related and co-existing statutes must harmonize and give full application to all * * * statutes [concerning the same subject matter] unless they are irreconcilable and in hopeless conflict.' * * *

State v. Pribble, 2019-Ohio-4808, ¶ 12.

¹⁰ See: *State v. Bollar*, *supra*.



R.C. 2929.14(B)(1)(g) & R.C. 2929.14(C)(1)(a), WHEN READ *IN PARI MATERIA*, ARE RECONCILABLE IN THAT THE LATTER CREATES TWO *ADDITIONAL SITUATIONS* WHERE CONSECUTIVE SERVICE OF MULTIPLE FIREARM SPECIFICATIONS IS MANDATED, TO WIT: A CONVICTION FOR THE USE OF BODY ARMOR SPECIFICATION & A CONVICTION FOR THE DISCHARGING A FIREARM FROM A MOTOR VEHICLE SPECIFICATION

It is really not that difficult to reconcile R.C. 2929.14(B)(1)(g) and R.C. 2929.14(C)(1)(a), because they both create an exception to the rule that a prison term “. . . shall be served concurrently with any other prison term unless an exception applies . . .” *Beatty, supra*, at ¶ 1.

R.C. 2929.14(B)(1)(g) mandates the imposition of consecutive firearm specs when they are attached to two or more certain serious felony offenses, aggravated murder, murder, aggravated robbery, rape, and felonious assault. And, importantly, it still applies even if some of those offenses have been merged.

In other words, it is not necessary that the offenses constitute separate and distinct transactions. That is, even where an offender is charged with multiple offenses with firearm specs stemming from one separate, distinct criminal act, and those offenses are listed in the statute, the two most serious firearm specs still must be imposed and served consecutively.¹¹

The logical tautology to this analysis is, of course, that where only one of these serious offenses with a firearm spec is charged, or, *the offense(s) are not listed in this subsection*, imposition of consecutive, multiple firearm specs is not required.

Here, we all agree that there is only one offense, aggravated robbery, listed in each of Cook's indictments. As such, the State is not arguing that R.C. 2929.14(B)(1)(g) is applicable.¹²

Let us turn our attention to R.C. 2929.14(C)(1)(a).

R.C. 2929.14(C)(1)(a) is, obviously, contained in Revised Code Section 2929.14, which is titled, “Definite Prison Terms.” Section (A) begins (with eighteen exceptions), to discuss the level of felony offenses and related prison terms.

¹¹ As noted above, this Court has previously found this subsection unconstitutional as it violates the merger doctrine emanating from the double jeopardy clause, due process, and equal protection.

¹² This observation raises an interesting issue of its own; if the State does not believe that the fact that Cook is charged by way of two separate indictments is relevant, then why doesn't the State argue that R.C. 2929.14(B)(1)(g) is applicable?



Subsection (B) addresses the effect of twelve of the nineteen specifications listed in R.C. 2941, "Indictment," on definite felony sentences and importantly, for our purposes, the firearm specs.

Subsection (C) broadly discusses, among other things, *additional situations* where certain firearm specifications must be served consecutively. Amazingly, this subsection references seven additional subsections that are in play and cross-referenced. They include the one-year firearm spec, the three-year firearm spec, the automatic firearm or suppressor spec, the discharge from a motor vehicle spec, the body armor spec, and the RVO spec.

Importantly, for purposes of our analysis, a close reading of R.C. 2929.14(C)(1)(a) reveals that only two specifications are directly mentioned as requiring imposition of consecutive sentences, the body armor spec, R.C. 2941.1441 and the discharging a firearm from a motor vehicle spec, R.C. 2941.146. While other specs are referenced, there are further exceptions that distinguish their consecutive imposition that are not relevant here.

And, for those who may question this analysis, I again ask a rhetorical question: if R.C. 2929.14(C)(1)(a) does in fact require consecutive imposition of multiple firearm specifications for any offenses, including those not listed in R.C. 2929.14(B)(1)g), then why do we need that subsection?

SOME ADDITIONAL CASES INTERPRETING R.C. 2929.14(C)(1)(a)

In *State v. Edwards*, 2025-Ohio-641, (8th Dist.), the Eighth District again affirmed the requirement that multiple firearm specifications must be imposed where offenses with firearms specs attached constitute separate acts or transactions. But, unlike here, the defendant in *Edwards* was charged with only one case, that is, one indictment. See: Cuyahoga County Court of Common Pleas, Case No. CR-23-686377-A.

In *State v. Fant*, 2016-Ohio-7429, (7th Dist.), the Seventh District engages in an interesting discussion about the application of R.C. 2929.14(C)(1)(a) that upholds consecutive imposition of multiple firearm specs where the crimes were committed with a separate animus, that is, they were separate acts or transactions. But again, the defendant in *Fant* was also charged with only one case, one indictment. See: Mahoning County Court of Common Pleas, Case No. 13 CR 1195.

Finally, in *State v. Ervin*, 2015-Ohio-3688, (2nd Dist.), the Second District consistently interpreted application of R.C. 2929.14(C)(1)(a) to require consecutive imposition of firearm specifications in almost any situation where a firearm specification was



previously or concurrently imposed, though, ironically, Ervin was not charged with a firearm specification.

We also note that R.C. 2929.14(C)(1)(a), which governs firearm specification sentencing, contains the same “previously or subsequently imposed” language contained in R.C. 2929.14(C)(3) and R.C. 2913.02(A)(1)(B)(4). Specifically, R.C. 2929.14(C)(1)(a) requires a mandatory prison term for a firearm specification to be served prior and consecutively to any prison term imposed for the underlying felony and “*consecutively to any other prison term or mandatory prison term previously or subsequently imposed upon the offender.*” (Emphasis added.) It is widely accepted that R.C. 2929.14(C)(1)(a) mandates a sentence imposed for a firearm specification to run consecutively to other prison sentences that were simultaneously imposed upon the offender. * * *

Id. at ¶ 24.

While it is not clear that the defendant in *Ervin* was charged in only one indictment, he was only convicted of two offenses, grand theft of a firearm and theft of drugs. Regardless, as this case does not contain an actual firearm specification, the dicta noted above is of limited value. Moreover, assuming that Ervin was facing only one indictment, it is again distinguishable from our case.

Nevertheless, this case must be considered seriously because of the final sentence. It reads,

It is widely accepted that R.C. 2929.14(C)(1)(a) mandates a sentence imposed for a firearm specification to run consecutively to other prison sentences that were simultaneously imposed upon the offender.

Id., emphasis added.

First, note the language, “it is widely accepted.”

Interesting, no? This seems to say, at least to this Court, that this axiom is not *universally* accepted.

Second, note the language, “. . . were *simultaneously* imposed upon the offender.” Does this not imply that where sentences with firearm specs are not simultaneously imposed, consecutive imposition is not required?



And if so, what about the language in this subsection that reads, “. . . consecutively to any other prison term or mandatory prison term *previously or subsequently imposed* upon the offender.”

So, again, which is it? Must consecutive service of prison terms be imposed upon an offender regardless of any previously or subsequently imposed mandatory term(s) or only when an offender is sentenced to multiple terms “simultaneously?” And, how does the fact that the Defendant herein is facing not one, but two separate, individual indictments affect the sentence?

Interestingly, what if this Court took a plea to Indictment #1 on June 1, 2026, and sentenced the Defendant to prison on the firearm spec and aggravated robbery charge, then on July 1, 2026, took a plea to Indictment #2 and sentenced him anew on that case’s firearm spec and aggravated robbery charge?

Which outcome is mandated? Does it matter if our Defendant plead and was sentenced on both indictments on the same day, that is, simultaneously, or in a noncontemporary manner?

If whomever is unfortunate enough to have to read this decision and understands these provisions and their interaction, this Court is impressed. Because to be clear, this Court, obviously, does not.

Regardless, since the answer eludes this Court, as above, the path forward dictates prudence.

So, once again, the most conservative approach in order to ensure that if the Defendant wishes to maintain his plea of guilty or plead no-contest, he does so cognizant of the worst-case scenario. And that, obviously, is to assume that any sentences imposed upon the predicate offense and firearm specifications in Indictment #1 and Indictment #2, must be served consecutively.

To that end, should the Defendant wish to maintain his guilty plea or withdraw it and plead no-contest, he will be advised that any prison sentence imposed for the aggravated robbery charge and firearm specification in Indictment #1 must run consecutive to the aggravated robbery charge and firearm specification in Indictment #2.

Should the Defendant wish to withdraw his plea in its entirety, he may do so, and the Court will schedule the matter for trial.



I. CONCLUSION

In the case at bar, the Court is faced with the difficult task of determining how to sentence the Defendant to multiple charges, contained in multiple indictments, with multiple firearm specifications.

In order to ensure that the Defendant's plea of guilty or no contest, should he wish to take that route, is made as knowingly, voluntarily, and intelligently, as possible. And to accomplish that objective, the Court will instruct the Defendant on the nature and service of the sentences (and firearm specifications) that must be imposed.

In the alternative, the Defendant may withdraw his plea of guilty, and enter a plea of no contest, or withdraw a plea and schedule the matter for trial.



JUDGE D. CHRIS COOK