

FILED

08/28/2026

Clerk of the
Appellate Courts

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs July 15, 2026

STATE OF TENNESSEE v. ANTONIO L. FULLER

Appeal from the Criminal Court for Davidson County
No. 2001-A-276 Angelita Blackshear Dalton, Judge

No. M2026-00212-CCA-R3-CD

In May 2002, a Davidson County jury convicted the Defendant, Antonio L. Fuller, of six offenses arising from a home invasion. The trial court imposed a total effective sentence of fifty-six years. In December 2025, the Defendant filed a pro se motion seeking to correct alleged clerical errors and omissions in his judgments pursuant to Tennessee Rule of Criminal Procedure 36. He argued that the judgments did not accurately reflect how his sentences were to be aligned and that, in his view, the misalignment resulted in an effective sentence longer than the one the trial court actually imposed. The trial court summarily denied the motion, and the Defendant appealed. Upon our review, we respectfully affirm the judgment of the trial court.

Tenn. R. App. P. 3 Appeal as of Right;
Judgment of the Criminal Court Affirmed

TOM GREENHOLTZ, J., delivered the opinion of the court, in which CAMILLE R. McMULLEN and JILL BARTEE AYERS, JJ., joined.

Antonio L. Fuller, Hartsville, Tennessee, Pro Se.

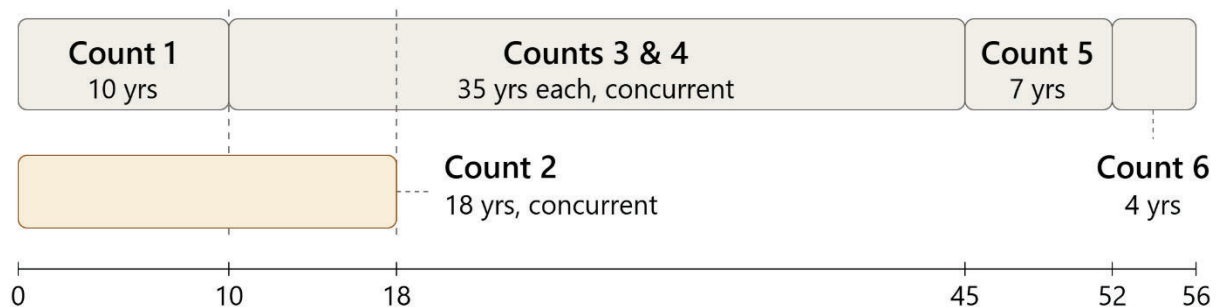
Jonathan Skrmetti, Attorney General and Reporter; William C. Lundy, Assistant Attorney General; Glenn R. Funk, District Attorney General; and Jan Norman, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

FACTUAL BACKGROUND

In this appeal, the Defendant challenges whether his judgments of conviction accurately reflect the original sentence imposed. In particular, the Defendant asserts that the judgments do not reflect that one of his convictions should be aligned consecutively to another sentence as he believes the trial court actually ordered.

As background for this issue, the Defendant was convicted in May 2002 of six separate offenses arising out of a home invasion in Davidson County. *See State v. Fuller*, 172 S.W.3d 533 (Tenn. 2005) (affirming convictions), *overruled by State v. White*, 362 S.W.3d 559 (Tenn. 2012). Following the sentencing hearing, the trial court entered judgments reflecting an effective sentence of fifty-six years, with the sentences aligned as follows:



More specifically, the written judgments of conviction reflected the following information:

- **Count 1** (aggravated burglary): 10 years, consecutive to a prior case.
- **Count 2** (aggravated robbery): 18 years, concurrent with Count 1.
- **Count 3** (especially aggravated kidnapping): 35 years, consecutive to Count 1, concurrent with Count 2.
- **Count 4** (especially aggravated kidnapping): 35 years, consecutive to Count 1, concurrent with Count 2 and Count 3.

- **Count 5** (evading arrest): 7 years, consecutive to Counts 1-4.
- **Count 6** (reckless endangerment): 4 years, consecutive to Counts 1-5.

The trial court noted the effective sentence length of fifty-six years in the special conditions box on all six judgments.

At the earlier sentencing hearing, the trial court orally announced how the sentences for the six convictions would align. In relevant part, the court announced that Counts 3 and 4 would run concurrently, but each would run consecutively to Count 1. In its announcement, however, the trial court did not specifically address how Count 2 would align with the other counts, though the written judgments aligned it concurrently with Count 1 and with Counts 3 and 4.

Two decades later, the Defendant filed a pro se motion in the trial court seeking to correct alleged clerical errors in the judgment forms. In his motion, the Defendant alleged that the concurrent alignment of Counts 1 and 2 was in error and resulted from the court reporter incorrectly transcribing the trial court's sentencing announcement. He argued that the transcript, properly construed, aligned Count 2 consecutively with Count 1 and concurrently with Counts 3 and 4. He therefore asked the trial court to correct the Count 2 judgment form to reflect a consecutive alignment with Count 1 and a concurrent alignment with Counts 3 and 4.

The trial court summarily dismissed the Defendant's motion. In its order, the trial court acknowledged that the record of the sentencing hearing did not address how Count 2 should be aligned with Count 1. Noting, however, that Tennessee Rule of Criminal Procedure 32(c)(1) presumes that a sentence is deemed to be concurrent unless specifically ordered otherwise, the trial court concluded that the Count 2 sentence runs concurrently with Count 1 by default. It therefore held that the judgments accurately reflected the oral announcement at the sentencing hearing and that the Defendant had failed to show the presence of a clerical error.

The trial court entered its order on January 16, 2026. The Defendant filed a timely notice of appeal twenty-seven days later. *See* Tenn. R. App. P. 4(a).

STANDARD OF APPELLATE REVIEW

For every issue raised on appeal, we must first determine the proper standard of appellate review. *See State v. Enix*, 653 S.W.3d 692, 698 (Tenn. 2022). In this case, the sole issue is whether the trial court properly denied the Defendant’s motion to correct an alleged clerical error in his judgments pursuant to Tennessee Rule of Criminal Procedure 36. “A trial court’s grant or denial of a Rule 36 motion to correct a clerical error is reviewed for an abuse of discretion.” *State v. Hancock*, No. M2025-00330-CCA-R3-CD, 2025 WL 3552776, at *2 (Tenn. Crim. App. Dec. 11, 2025), *no perm. app. filed*.

ANALYSIS

In support of his single issue, the Defendant raises two arguments. First, he asserts that the judgment for Count 2 should be corrected to reflect that it runs consecutively, rather than concurrently, with Count 1. Second, he asserts that the Count 2 judgment omits any reference to Counts 3 and 4. According to the Defendant, that omission caused correctional officials to miscalculate his sentence, treating the Count 2 sentence as a separate, additional eighteen years, rather than as time already included within the fifty-six-year total. This calculation, he asserts, produced an effective sentence of seventy-four years rather than the fifty-six years the trial court imposed.

The State responds that the six judgment forms, read together, accurately reflect the fifty-six-year effective sentence announced at the sentencing hearing and that no clerical error exists. We agree with the State.

A. CORRECTION OF CLERICAL ERRORS IN JUDGMENTS

Tennessee Rule of Criminal Procedure 36 permits a trial court to correct “clerical mistakes in judgments, orders, or other parts of the record, and errors in the record arising from oversight or omission” at any time. *See* Tenn. R. Crim. P. 36. Clerical errors “arise simply from a clerical mistake in filling out the uniform judgment document.” *State v. Wooden*, 478 S.W.3d 585, 595 (Tenn. 2015). Where a trial court fails, by reason of clerical mistake, oversight, or omission, to record a defendant’s sentence accurately on a judgment, the trial court retains the power to correct the error under Rule 36. *State v. Brown*, 479 S.W.3d 200, 213 (Tenn. 2015). To determine whether a judgment contains a clerical error,

a court ordinarily must compare the judgment with the transcript of the trial court's oral statements. In the event of a conflict, the transcript is controlling. *Id.*

B. COUNT 2'S ALIGNMENT RELATIVE TO COUNT 1

The Defendant first argues that the judgments do not reflect the correct alignment of Count 2 with Count 1 as announced at the sentencing hearing. At that hearing, the court did not specifically address how the Defendant's sentence in Count 2 would align with his sentence in Count 1. Thus, the court was effectively silent on how these sentences aligned.

Tennessee Rule of Criminal Procedure 32(c)(1) resolves this silence: all sentences are deemed to be concurrent unless the record affirmatively shows that sentences are ordered to run consecutively. *See* Tenn. R. Crim. P. 32(c)(1). Because the record does not affirmatively show that the trial court ordered Count 2 to run consecutively to Count 1, the two sentences are aligned concurrently by operation of law. As such, the concurrent alignment of Count 2 with Count 1 in the judgments reflects the actual sentence imposed. No clerical error exists in this regard.

Pushing against this conclusion, the Defendant offers two arguments. First, he points to the transcript from the sentencing hearing discussing how Count 1 was aligned with his other sentences. There the trial court said, "I'm going to run the Aggravated Burglary charge [Count 1] and the Aggravated—Especially Aggravated Kidnapping charge [Counts 3 and 4] consecutive to each other[.]" The Defendant contends that the court's reference to "the Aggravated—" signaled that it aligned the Aggravated Robbery sentence in Count 2 consecutively to Count 1.

We respectfully disagree. The transcript of the sentencing hearing does not affirmatively show that the trial court aligned Count 2 consecutively to Count 1; rather, it reflects only an incomplete phrase before the court's discussion of Counts 3 and 4. Although the Defendant asks us to infer that the court reporter erred in not fully transcribing what the trial court said, he has not supplied any evidence to support that inference. He has not, for example, supplied the audio recordings of the sentencing hearing or any other evidence that the transcript does not accurately reflect what was said in open court. Because the Defendant has the burden to provide a record that supports his claim, we cannot grant relief on this basis. *See State v. Stack*, 682 S.W.3d 866, 876 (Tenn. Crim. App. 2023).

Second, the Defendant points to a statement the trial court made while sentencing a co-defendant in the same proceeding. There, the court remarked that every one of his sentences “are going to run consecutive to each other.” In the Defendant’s view, this statement reflects the trial court’s practice of ordering a defendant’s sentences to run consecutively. He contends this practice supports the same reading as to Count 2 in his own case.

We again respectfully disagree. The trial court’s sentencing decision as to the co-defendant was individualized to that person and says nothing about the Defendant’s own sentence. Indeed, it is worth noting that the trial court did not run “every one” of the Defendant’s own sentences consecutively; it ordered Counts 3 and 4 to be served concurrently with each other. As such, absent an affirmative showing in the record that Count 2 was ordered to be served consecutively to Count 1, those sentences are deemed to be concurrent. *See* Tenn. R. Crim. P. 32(c)(1). The Defendant is not entitled to relief on this ground.

C. COUNT 2’S ALIGNMENT RELATIVE TO COUNTS 3 AND 4

The Defendant separately contends that the judgment for Count 2 omits any reference to its alignment with Counts 3 and 4 and that this omission should be corrected pursuant to Rule 36. The State responds that the judgments for Counts 3 and 4 independently provide that they are aligned concurrently with Count 2 and that the judgment for Count 2 is not required to restate that information. We agree with the State.

Rule 36 permits correction of errors that arise “from oversight or omission.” *See also State v. Allen*, 593 S.W.3d 145, 154 (Tenn. 2020) (recognizing that a court may “supply omitted or overlooked information”). But the six judgments here, read together, contain no omitted or overlooked information: Counts 3 and 4’s own judgment forms independently and correctly state their concurrent alignment with Count 2. The absence of a cross-reference on the Count 2 form does not itself create an omission requiring correction.¹

¹ Similarly, the Defendant also argues in his reply brief that the judgment for Count 3 should be corrected to show that its sentence is concurrent with that in Count 4. However, the judgment for Count 4 already shows that alignment, and the absence of a cross-reference in Count 3 does not create an omission requiring correction.

Nevertheless, the Defendant asserts that the Board of Parole has misconstrued the alignment of the judgments because of the omitted information. Attached to his appellate brief is a status letter from the Board, which he believes shows that Count 2 is misaligned from Counts 3 and 4, thereby extending his overall term of imprisonment to seventy-four years.

That letter does not appear anywhere in the technical record, and because it appears only in the appendix to the Defendant's brief, we may not consider it. *See Dunigan v. State*, No. E2005-01574-CCA-R3-PC, 2006 WL 433699, at *3 (Tenn. Crim. App. Feb. 23, 2006) (“[W]e note that documents attached to an appellate brief but not included in the record on appeal cannot be considered by this court as part of the record on appeal.”), *perm. app. denied* (Tenn. June 26, 2006). Nor do we have authority to consider the Defendant's characterization of how the Department of Correction may have calculated his sentence in its administrative capacity.²

Even so, the law provides that a clerical error does not exist where the sentencing calculation is clear and straightforward on the existing record. *See State v. March*, No. M2018-00660-CCA-R3-CD, 2019 WL 1409354, at *3 (Tenn. Crim. App. Mar. 28, 2019) (concluding no clerical error existed because “the sentencing calculation is very clear and straight forward”), *perm. app. denied* (Tenn. July 17, 2019). That principle is true here: the judgment forms and the trial court's oral announcement both provide for an unambiguous fifty-six-year total effective sentence, with Count 2 aligned concurrently with Count 1 and with Counts 3 and 4. Because the judgment forms, read together, accurately reflect the sentence the trial court announced at the sentencing hearing, the trial court properly denied the Defendant's Rule 36 motion.

CONCLUSION

In summary, we hold that the judgment forms, read together, accurately reflect the sentence the trial court announced at the sentencing hearing. Accordingly, we respectfully

² To the extent the Defendant disputes how the Department of Correction has calculated his release eligibility or sentence expiration date, that dispute is properly resolved under the Tennessee Uniform Administrative Procedures Act, not this appeal. *See* Tenn. Code Ann. §§ 4-5-101 to -325 (2021); *Stewart v. Schofield*, 368 S.W.3d 457, 459 (Tenn. 2012). We reach no determination as to those matters here.

affirm the judgment of the trial court denying the Defendant's motion to correct a clerical error.

s/ *Tom Greenholtz*
TOM GREENHOLTZ, JUDGE