

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,	:	Case No. 2025-0218
	:	
Plaintiff-Appellant,	:	On Appeal From the Eighth District
	:	Court of Appeals
v.	:	
	:	Court of Appeals Case No. 113766
DAVERRICK LASH,	:	
	:	
Defendant-Appellee.	:	

BRIEF OF *AMICUS CURIAE* OHIO INNOCENCE PROJECT IN SUPPORT OF APPELLEE

Michael O'Malley (0059592)
Cuyahoga County Prosecutor
Owen Knapp (0102561)
Assistant Prosecuting Attorney
Cuyahoga County Prosecutor's Office
1200 Ontario Street, Ninth Floor
Cleveland, OH 44113
(216) 443-7800
oknapp@prosecutor.cuyahogacounty.us
Counsel for Appellant

John C. Pattituce (0081384)
Megan M. Pattituce (0081064)
Pattituce & Associates
16855 Foltz Industrial Parkway
Strongsville, OH 44149
(441) 471-7784
attorneypattituce@pattitucelaw.com
Counsel for Appellee

Donald R. Caster (0077413)
Professor of Clinical Law
University of Cincinnati College of Law
P.O. Box 210040
Cincinnati, OH 45221
(513) 556-4273
donald.caster@uc.edu
Counsel for *Amicus Curiae* Ohio Innocence
Project

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
INTRODUCTION	1
STATEMENT OF AMICUS INTEREST	2
STATEMENT OF FACTS	2
ARGUMENT	3
CONCLUSION	12
CERTIFICATE OF SERVICE	13

TABLE OF AUTHORITIES

Cases

<i>Athens v. McClain</i> , 2020-Ohio-5146	8
<i>FDA v. Wages and White Lion Investments</i> , 604 U.S. 542, 145 S.Ct. 898 (2025)	11
<i>Jones v. State</i> , 9 Ohio St.2d 21 (1966)	12
<i>In re 6011 Greenwich Windpark, L.L.C.</i> , 157 Ohio St.3d 235, 2019-Ohio-2406, 134 N.E.3d 1157	7
<i>Sec. & Exch. Comm'n v. Chenery Corp.</i> , 318 U.S. 80, 94, 63 S. Ct. 454, 462, 87 L. Ed. 626 (1943)	11
<i>State ex rel. Penland v. Dinkelacker</i> , 2020-Ohio-3774	9, 10
<i>State v. Buehler</i> , 2007-Ohio-1246	10
<i>State v. Conner</i> , 2020-Ohio-3720 (8th Dist.)	9
<i>State v. Conner</i> , 2020-Ohio-4310 (8th Dist.)	3, 9
<i>State v. Hickman</i> , 2024-Ohio-5747	10
<i>State v. Lash</i> , 2017-Ohio-4065, (8th Dist.)	2
<i>State v. Levingston</i> , 1st Dist. Case No. C-2100378	9
<i>State v. Rawls</i> , 2016-Ohio-7962 (8th Dist.)	9
<i>State v. Richard</i> , 2013-Ohio-3918, (8th Dist.)	3
<i>State v. Roberts</i> , 134 Ohio St.3d 459, 2012-Ohio-5684, 983 N.E.2d 334	5
<i>State v. Scott</i> , 2022-Ohio-4277	10
<i>State v. Smith</i> , 2007-Ohio-2369, (8th Dist.)	3
<i>Woodworth v. State</i> , 26 Ohio St. 196 (1875)	8
<i>Youngstown Club v. Porterfield</i> , 21 Ohio St.2d 83, 86, 255 N.E.2d 262 (1970)	8

Statutes

R.C. 2953.23	4
R.C. 2953.72	9
R.C. 2953.73	1, 5, 11
R.C. 2953.74	5, 7
R.C. 2953.76	9

Other Sources

Black's Law Dictionary (12th ed. 2024).....	8
---	---

INTRODUCTION

Wrongful convictions are, sadly and undisputedly, an unwelcome part of the American criminal justice system. Since 1989, forensic DNA testing has become an important route to correcting wrongful convictions and freeing wrongfully incarcerated individuals. According to the National Registry of Exonerations, 633 people have been freed because of postconviction DNA testing. The Ohio General Assembly has recognized the importance of DNA testing to correct injustice, enacting a statutory postconviction DNA-testing regime. Under Ohio law, an eligible offender is entitled to testing of the evidence pertaining to the crime of their conviction if such testing would be “outcome determinative.” But when a trial court denies, or “rejects,” an application for testing, the General Assembly has directed that it give its “reasons” for its decision. R.C. 2953.73(D).

In the instant case, the Cuyahoga County Court of Common Pleas rejected an application for postconviction DNA testing, stating in its order only that the applicant had “not shown that DNA testing would be outcome determinative” and that “results would not be probative.” The Eighth District Court of Appeals, adhering to its precedents, remanded the case, holding that the trial court’s explanation was insufficient under Ohio law.

The trial court did not offer a reason for its decision. Instead, it offered only a legal conclusion: that postconviction DNA testing would not be outcome determinative as to Appellee’s guilt or innocence. A recitation of the reasoning of a trial court’s decision is important for two reasons. First, the Ohio General Assembly has required it. Second, an understanding of a trial court’s reasoning is essential in appellate review of its decisions. This Court should affirm the judgment of the Eighth District Court of Appeals.

STATEMENT OF AMICUS INTEREST

The Ohio Innocence Project at the University of Cincinnati College of Law is a free legal clinic that provides legal and investigatory services to indigent clients who are innocent, were wrongfully convicted, and are fighting to secure their freedom. The work of the Ohio Innocence Project has led to freedom for 43 innocent people across the state who have together served more than 800 years in prison for crimes they did not commit. The Ohio Innocence Project has an interest in the correct interpretation of postconviction DNA-testing statutes.

STATEMENT OF FACTS

In 2015, William Burton was shot and killed at Club Fly High in Cleveland, Ohio. *State v. Lash*, 2017-Ohio-4065, ¶ 1 (8th Dist.). Several days after the murder, a witness identified Appellee Daverrick Lash as the shooter, and a second witness told police she saw the shooter spit just before shooting Mr. Burton. *Id.* A sample of what appeared to be saliva that had been collected near the shooting was consistent with Mr. Lash's DNA. *Id.* As the Court of Appeals noted in affirming Mr. Lash's conviction, the two eyewitnesses "wavered" in their testimony at trial. *Id.* Nonetheless, Mr. Lash was convicted of aggravated murder and sentenced to life in prison with parole possible only after 31 years.

In 2021, Mr. Lash submitted an application for postconviction DNA testing to the trial court. Through counsel, Mr. Lash sought testing of swabs taken from spent shell casings recovered from the crime scene. He also requested that the trial court order that previously obtained DNA results from the magazine of the firearm used in the murder be uploaded to the Combined DNA Index System ("CODIS"). In a brief entry, the trial court denied his application, stating only that he had "not shown that DNA testing would be outcome determinative" and that

“results would not be probative.” On appeal, the Eighth District reversed the trial court’s judgment and remanded the case with instructions to the trial court to state its analysis that supported its conclusion, holding:

Here, in our instant case, the trial court merely stated: “Defendant's motion for application for DNA testing is denied. Defendant has not shown that DNA testing would be outcome determinative. This court finds results would not be probative.” However, the trial court does not provide its reasons or analysis for reaching its conclusion. This court has previously held that when the trial court's judgment fails to provide any reasons explaining how the court reached this conclusion, its decision is contrary to law and constitutes an abuse of discretion. *State v. Richard*, 2013-Ohio-3918, ¶ 9 (8th Dist.).

“The term ‘outcome determinative’ is a conclusion based upon consideration of all the available evidence. It is not a reason in and of itself.” *State v. Connor*, 2020-Ohio-4310, ¶ 15 (8th Dist.). “Therefore, the court is bound by R.C. 2953.73(D) to provide reasons explaining how the court reached the ‘outcome determinative’ conclusion.” *Richard* at ¶ 8. *See also State v. Smith*, 2007-Ohio-2369, ¶ 8 (8th Dist.) (stating that when a trial court does not engage in an analysis of defense theories or provide the reasons on which it relied in reaching its conclusion that the DNA test would not be outcome determinative, its order is insufficient).

State v. Lash, 2024-Ohio-6025, ¶¶ 14-15 (8th Dist.) (cleaned up). This Court accepted this case for review upon the filing of an appeal by the State of Ohio.

ARGUMENT

A. The History of Postconviction DNA Testing in Ohio

In 2003, the Ohio General Assembly passed Sub.S.B. No. 11 (“S.B. 11”), 150 Ohio Laws, Part IV, 6498, “to establish a mechanism and procedures for the testing of certain inmates serving a prison term for a felony or under a sentence of death.” By their own terms, the original DNA-testing statutes were temporary: eligible incarcerated Ohioans had one year from the enactment of S.B. 11 to submit applications for DNA testing. That deadline was later extended

by a year. Sub.H.B. No. 525, 150 Ohio Laws, Part IV, 6262, 6278. S.B. 11 permitted a court to grant postconviction relief upon the completion of testing if:

The petitioner was convicted of a felony, the petitioner is an inmate for whom DNA testing was performed under sections 2953.71 to 2953.81 of the Revised Code or under section 2953.82 of the Revised Code, and the results of the DNA testing establish, by clear and convincing evidence, actual innocence of that felony offense, or, if the person was sentenced to death, establish, by clear and convincing evidence, actual innocence of the aggravating circumstance or circumstances the person was found guilty of committing and that is or are the basis of that sentence of death.

Former (S.B. 11 version) R.C. 2953.23(A)(2). The law was narrow, and only a small percentage of applicants were successful in obtaining testing.

In 2006, the General Assembly enacted a permanent post-conviction DNA-testing regime through the passage of Sub.S.B. No. 262 (“S.B. 262”), 151 Ohio Laws, Part I, 1716. S.B. 262 significantly expanded the acceptance criteria, making testing much more widely available to incarcerated Ohioans. Among the broadened criteria was whether postconviction DNA testing would be “outcome determinative.” R.C. 2953.74(B) & (C). Under S.B. 11, “outcome determinative” meant that “had the results of DNA testing been presented at the trial of the subject inmate ... no reasonable factfinder would have found the inmate guilty of that offense ...” But under S.B. 262, testing is outcome determinative if, “had the results of the DNA testing been presented at the trial of the subject inmate ... there is a strong probability that no reasonable factfinder would have found the inmate guilty of that offense.” In other words, the S.B. 11 standard required a court to find that no reasonable factfinder would have found an incarcerated person guilty of the offense to grant testing, while under S.B. 262, a court need only find a strong probability that a reasonable factfinder would have found the defendant guilty.

In 2010, the General Assembly enacted 2010 Sub.S.B. 77 (“S.B. 77”). The statute made substantial changes to the impact of prior postconviction testing on the adjudication of a DNA-

testing application. It added R.C. 2953.71(U), which defined “prior definitive test.” It also established a task force charged with creating a uniform system and standards for the preservation of biological evidence. *See State v. Roberts*, 134 Ohio St.3d 459, 2012-Ohio-5684, 983 N.E.2d 334, ¶ 19. The statute made incarcerated Ohioans who had pled guilty or no contest ineligible to seek postconviction DNA testing, and changed language referring to “inmates” to “offenders.” The postconviction DNA-testing statutes have not been amended since the passage of S.B. 77.

B. The Current Statutory Framework For Postconviction DNA Testing

Under R.C. 2953.73(A), an “eligible offender” may submit an application for postconviction DNA testing to the court of common pleas that sentenced the offender. A court may accept such an application only after determining that one of two circumstances is present:

- (1) The offender did not have a DNA test taken at the trial stage in the case in which the offender was convicted of the offense for which the offender is an eligible offender and is requesting the DNA testing regarding the same biological evidence that the offender seeks to have tested, the offender shows that DNA exclusion when analyzed in the context of and upon consideration of all available admissible evidence related to the subject offender's case as described in division (D) of this section would have been outcome determinative at that trial stage in that case, and, at the time of the trial stage in that case, DNA testing was not generally accepted, the results of DNA testing were not generally admissible in evidence, or DNA testing was not yet available.
- (2) The offender had a DNA test taken at the trial stage in the case in which the offender was convicted of the offense for which the offender is an eligible offender and is requesting the DNA testing regarding the same biological evidence that the offender seeks to have tested, the test was not a prior definitive DNA test that is subject to division (A) of this section, and the offender shows that DNA exclusion when analyzed in the context of and upon consideration of all available admissible evidence related to the subject offender's case as described in division (D) of this section would have been outcome determinative at the trial stage in that case.

R.C. 2953.74(B). Assuming this threshold is met, a trial court may grant testing only if an applicant meets all of several criteria:

If an eligible offender submits an application for DNA testing under section 2953.73 of the Revised Code, the court may accept the application only if all of the following apply:

(1) The court determines pursuant to section 2953.75 of the Revised Code that biological material was collected from the crime scene or the victim of the offense for which the offender is an eligible offender and is requesting the DNA testing and that the parent sample of that biological material against which a sample from the offender can be compared still exists at that point in time.

(2) The testing authority determines all of the following pursuant to section 2953.76 of the Revised Code regarding the parent sample of the biological material described in division (C)(1) of this section:

(a) The parent sample of the biological material so collected contains scientifically sufficient material to extract a test sample.

(b) The parent sample of the biological material so collected is not so minute or fragile as to risk destruction of the parent sample by the extraction described in division (C)(2)(a) of this section; provided that the court may determine in its discretion, on a case-by-case basis, that, even if the parent sample of the biological material so collected is so minute or fragile as to risk destruction of the parent sample by the extraction, the application should not be rejected solely on the basis of that risk.

(c) The parent sample of the biological material so collected has not degraded or been contaminated to the extent that it has become scientifically unsuitable for testing, and the parent sample otherwise has been preserved, and remains, in a condition that is scientifically suitable for testing.

(3) The court determines that, at the trial stage in the case in which the offender was convicted of the offense for which the offender is an eligible offender and is requesting the DNA testing, the identity of the person who committed the offense was an issue.

(4) The court determines that one or more of the defense theories asserted by the offender at the trial stage in the case described in division (C)(3) of this section or in a retrial of that case in a court of this state was of such a nature that, if DNA testing is conducted and an exclusion result is obtained, the exclusion result will be outcome determinative.

(5) The court determines that, if DNA testing is conducted and an exclusion result is obtained, the results of the testing will be outcome determinative regarding that offender.

(6) The court determines pursuant to section 2953.76 of the Revised Code from the chain of custody of the parent sample of the biological material to be tested and of any test sample extracted from the parent sample, and from the totality of circumstances involved, that the parent sample and the extracted test sample are the same sample as collected and that there is no reason to believe that they have been out of state custody or have been tampered with or contaminated since they were collected.

R.C. 2953.74(C). Thus, a trial court is repeatedly called—in R.C. 2953.74(B), R.C. 2953.74(C)(4), and R.C. 2953.74(C)(5)—to determine whether DNA testing would be “outcome determinative.” And a decision that testing would not be outcome determinative mandates rejection of an application. The statute also requires that whether the trial court accepts or rejects an application for testing, it must include within its judgment or order “the reasons for the acceptance or rejection.” R.C. 2953.73(D).

C. The Plain Meaning of R.C. 2953.73 Requires A Trial Court To Offer More Than A Legal Conclusion.

The mandate of R.C. 2953.73(D) is clear:

Upon making its determination, the court shall enter a judgment and order that either accepts or rejects the application and that includes within the judgment and order the reasons for the acceptance or rejection as applied to the criteria and procedures set forth in sections 2953.71 to 2953.81 of the Revised Code.

The General Assembly did not direct trial courts merely to make its determination within the guidelines of the statutory scheme for postconviction DNA testing and announce their ultimate conclusion. Instead, the legislature has explicitly required trial courts to include its “reasons” for their decisions.

This Court has repeatedly held that “[i]n construing statutes, it is customary to give words their plain meaning unless the legislative body has clearly expressed a contrary intention.” *In re 6011 Greenwich Windpark, L.L.C.*, 157 Ohio St.3d 235, 2019-Ohio-2406, 134 N.E.3d 1157, ¶ 19 (quoting *Youngstown Club v. Porterfield*, 21 Ohio St.2d 83, 86, 255 N.E.2d 262 (1970)). Indeed, this Court’s preference for giving statutory words and phrases their ordinary meaning has a long history. *See, e.g., Woodworth v. State*, 26 Ohio St. 196, 198 (1875) (noting that “the intent of the legislature is to be found in the ordinary meaning of the words of the statute”).

In determining the common or ordinary meaning of words, courts may look to dictionaries. *See, e.g., State v. Bertram*, 2023-Ohio-1456, ¶ 13; *Athens v. McClain*, 2020-Ohio-5146, ¶ 30. The Merriam-Webster Dictionary defines the word “reason” as:

- a statement offered in explanation or justification
- a rational ground or motive
- the thing that makes some fact intelligible
- a sufficient ground of explanation or logical defense.¹

In the context of postconviction DNA testing, merely stating that one of the mandatory criteria for acceptance of an application has not been met is not a “reason.” Instead, it is a legal conclusion, as the determination that any one criterion has not been met requires the trial court to reject the application.

In differentiating between a “reason” and a “conclusion,” reviewing the meaning of a “legal conclusion” is helpful. Black’s Law Dictionary defines a legal conclusion as “a statement that expresses a legal duty or result but omits the facts creating or supporting the duty or result.” Black’s Law Dictionary (12th ed. 2024). The statement that an application for postconviction DNA testing has not demonstrated that testing would be outcome determinative expresses a

¹ www.merriam-webster.com/dictionary/reason

“legal duty”: the trial court must reject the application. It omits the facts that create or support that duty.

The Eighth District’s decision in this case was consistent with its own long line of precedents requiring trial court to adhere to the statutory requirements for adjudicating applications for postconviction DNA testing and state the reasons for denying such applications. *See, e.g., State v. Conner*, 2020-Ohio-4310 (8th Dist.); *State v. Rawls*, 2016-Ohio-7962 (8th Dist.). Notably, prior to this Court’s decision in *State ex rel. Penland v. Dinkelacker*, 2020-Ohio-3774, the Eighth District often dismissed appeals such as the one in the instant case, holding that orders that failed to state the reasons for the denial of postconviction DNA testing were not final, appealable orders. *See, e.g., State v. Conner*, 2020-Ohio-3720 (8th Dist.), *vacated and superseded*, 2020-Ohio-4310. The First District Court of Appeals also viewed such orders as so deficient as to lack appealability, and would stay appellate briefing and remand the case to the trial court for the limited purpose of stating its reasons prior to *Penland*. *See, e.g., State v. Livingston*, 1st Dist. Case No. C-2100378, 11/15/2021 Order Staying Appeal And Remanding Case.

An *amicus curiae* brief in support of Appellant spends much time tracing the history of the nature and scope of appellate review in the United States. But that history is beside the point. This case does not involve a common law claim or remedy. Instead, the relief sought by Appellee in the courts below is a creation of statute. The General Assembly has established the manner in which applications for postconviction DNA testing are to be initiated and reviewed. The legislature has done so in excruciating detail, going so far as to even require an applicant to complete a specific form. *See* R.C. 2953.72(A). The statutory scheme demands that several specific criteria be met before an application may be granted. The statutes set forth procedures

for ascertaining what biological material is available for testing. *See* R.C. 2953.76. And the statute compels trial courts to state their “reasons”—not simply their legal conclusions—in accepting or rejecting an application for postconviction testing.

A statutory requirement that a trial court announce more than its final judgment (such as “motion denied” or “motion granted”) is hardly unusual. This Court’s decision in *Penland* is highly instructive. In that case, this Court held that a trial court’s failure to make statutorily required findings of fact and conclusions of law in denying a petition for postconviction relief renders the trial court’s judgment “subject to reversal on appeal.” *Penland*, ¶ 20. And the Court reiterated that the “the failure to issue findings of fact and conclusions of law is an error that should be corrected on appeal. ...” *Id.*, ¶ 22.

Just as in the postconviction relief statutes at issue in *Penland*, Ohio’s statutes governing postconviction DNA testing require a trial court to do more than simply announce its judgment. A trial court is also required to announce the reasons behind its judgment. The Eighth District Court of Appeals correctly held that merely stating that testing would not be outcome determinative is not a reason or reasons for denying testing; instead, it is a legal conclusion that must be supported by its own reasons. The Eighth District thus correctly reversed the decision of the trial court and remanded the case for further proceedings. Its judgment should not be disturbed on review by this Court.

D. Adoption Of The State’s Proposition Of Law Would Render Denials Of Postconviction DNA Testing Essentially Unreviewable.

A trial court’s decision as to whether postconviction DNA testing would be outcome determinative is reviewed for abuse of discretion. *State v. Scott*, 2022-Ohio-4277, ¶ 12; *State v. Buehler*, 2007-Ohio-1246, paragraph one of the syllabus. The abuse-of-discretion standard is

highly deferential. As this Court has recently explained, an abuse of discretion is defined as “conduct that is unreasonable, arbitrary, or unconscionable.” *State v. Hickman*, 2024-Ohio-5747, ¶ 32. A decision is arbitrary if it was made “without consideration of or regard for facts or circumstances.” *Id.* Importantly, this Court has repeatedly held that an abuse of discretion “includes a situation in which a trial court did not engage in a sound reasoning process.” *Id.*; see also *State v. Darmond*, 2013-Ohio-966, ¶ 34; *State v. Morris*, 2012-Ohio-2407, ¶ 14.

Given the deference given to a trial court’s judgment, the General Assembly’s directive that trial courts state the reasons for their ultimate decisions is even more critical. If an appellate court has before it only a one-sentence entry that testing would not be outcome determinative, how can it ascertain whether the trial court’s decision was “unreasonable, arbitrary, or unconscionable?” How can it decide whether a trial court duly “considered the facts or circumstances” of the case? And how it can rule as to whether the trial court engaged in a “sound reasoning process?” The answer is clear: it cannot. And if a reviewing court is unable to hold that a decision was unreasonable, arbitrary, or unconscionable, the abuse-of-discretion standard would require it to affirm the judgment of the court below.

The United States Supreme Court has described the problem with providing a deferential standard of review to a judgment when that judgment’s reasoning remains unexplained: “Congress has seen fit to subject to judicial review such orders of the Securities and Exchange Commission as the one before us. That the scope of such review is narrowly circumscribed is beside the point. For the courts cannot exercise their duty of review unless they are advised of the considerations underlying the action under review.” *Sec. & Exch. Comm’n v. Chenery Corp.*, 318 U.S. 80, 94, 63 S. Ct. 454, 462, 87 L. Ed. 626 (1943).² That decision arose in the context of

² The “Chenery doctrine” has recently been limited by the unanimous Supreme Court decision in *FDA v. Wages and White Lion Investments*, 604 U.S. 542, 145 S.Ct. 898 (2025). However, the *White Lion* decision does not take issue

an appeal from a decision of an administrative agency. But the principle holds true in deferential reviews of lower court decisions, as well.

This Court has recognized the importance of understanding a trial court's reasoning to appellate review. In *Jones v. State*, 9 Ohio St.2d 21 (1966), for instance, this Court reversed the judgment of the court below because that court failed to provide its findings of fact and conclusions of law in deciding against a litigant seeking postconviction relief. The Court noted, "Such findings are necessary ... to enable the appellate courts to properly determine appeals in such a cause." *Id.* at 22.

Ohio's legislature gave defendants the right to appeal the denial of postconviction DNA testing. R.C. 2953.73(E). An appellate court cannot determine whether an abuse of discretion has occurred when a trial court offers no insight into how it exercised its discretion. The General Assembly recognized this in requiring trial courts to provide the reasons for their decisions in this context. Appellate courts must enforce this requirement not just because the statute requires it, but also because the statute grants a right to appeal, a right that is only meaningful if the trial court's reasons are announced.

The Eighth District Court of Appeals was called upon to review a trial court's decision for abuse of discretion in a circumstance in which it had no way to gauge whether the lower court had properly exercised its discretion. Its decision to remand the case for the lower court to comply with its statutory obligation to provide the reasons for its decision was correct and was the only way for the appellate court to avoid substituting its own judgment for that of the trial court.

with the Court's holding that deferential review is only possible when the reasons for a decision under review are explained.

CONCLUSION

This Court should give effect to the plain meaning of the words enacted by the Ohio General Assembly: in announcing their decisions on applications for postconviction DNA testing, trial courts must state the reasons for their decisions, and not merely their ultimate legal conclusion. The decision of the Eighth District Court of Appeals should be affirmed by this Court, and this Court should decline to adopt Appellant's proposition of law.

Respectfully submitted,

/s/ Donald R. Caster

Donald R. Caster (0077413)
Ohio Innocence Project
University of Cincinnati College of Law
P.O. Box 210040
Cincinnati, OH 45221-0040
(513) 556-4273 (phone)
(513) 556-0702 (fax)
donald.caster@uc.edu

CERTIFICATE OF SERVICE

The undersigned certifies the foregoing was served upon counsel for all parties and amici via email this 23rd day of September, 2025.

/s/ Donald R. Caster

Donald R. Caster