[Cite as *State v. Hitchcock*, 2026-Ohio-3168.]

IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY

STATE OF OHIO, Plaintiff-Appellee, - vs - CORY A. HITCHCOCK, Defendant-Appellant.	**CASE NO. 2026-L-0011** Criminal Appeal from the Court of Common Pleas Trial Court No. 2025 CR 000508

OPINION AND JUDGMENT ENTRY

Decided: August 17, 2026
Judgment: Affirmed

Charles E. Coulson, Lake County Prosecutor; *Teri R. Daniel* and *Laurence D. Giegerich*, Assistant Prosecutors, Lake County Administration Building, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Plaintiff-Appellee).

Eric M. Levy, The Law Office of Schlachet and Levy, Terminal Tower, Suite 2200, 50 Public Square, Cleveland, OH 44113 (For Defendant-Appellant).

JOHN J. EKLUND, J.

{¶1} Appellant, Cory A. Hitchcock, appeals his convictions for aggravated possession of drugs, an accompanying major drug offender specification, and possession of criminal tools following a jury trial in the Lake County Court of Common Pleas.

{¶2} Appellant raises three assignments of error, arguing that (1) the trial court erred by denying his motion for new appointed counsel; (2) he received ineffective assistance of counsel when trial counsel failed to file a motion to suppress; and (3) there was insufficient evidence to support his conviction for aggravated possession of drugs and the accompanying specification.

{¶3} Having reviewed the record and applicable law, we find that Appellant's assignments of error are without merit. First, the trial court did not abuse its discretion by denying Appellant's request for new counsel. The record does not support the Appellant's assertion that there was a complete breakdown in communication between Appellant and his appointed counsel. Second, Appellant has not established a reasonable probability that a motion to suppress the evidence seized from the vehicle would have been successful. There was no testimony indicting that Appellant was "lawfully" parked in the driveway in which he left the vehicle before fleeing from police. Third, Appellant's conviction for aggravated possession of drugs was supported by sufficient evidence. This Court reviews all evidence, including inadmissible evidence, in conducting a sufficiency analysis. In addition, the definition of "bulk amount" utilized at trial is apparent from the record.

{¶4} Therefore, we affirm the judgment of the Lake County Court of Common Pleas.

Substantive and Procedural History

{¶5} On April 8, 2025, Deputy Gaylog of the Lake County Sheriff's Office was conducting traffic patrol in Painesville Township, Ohio. While traveling on Richmond Road, Deputy Gaylog observed Appellant driving a white sedan and heard the vehicle make an unusually loud noise from its exhaust. Deputy Gaylog initiated a traffic stop, at which time Appellant turned into the driveway of a private residence, exited the vehicle, and fled through the residence's backyard. Deputy Gaylog ran after Appellant and caught up to him. After engaging in a struggle, Deputy Gaylog took control of Appellant and held him down on the ground until additional deputies arrived.

{¶6} Deputy Vandervort assisted Deputy Gaylog in handcuffing Appellant and escorting him to the backseat of a patrol vehicle, at which time the deputies were able to identify Appellant. According to Deputy Gaylog, the vehicle Appellant had been driving was registered to a female.

{¶7} Deputy Gaylog ordered a tow truck for the vehicle and searched it, which he described as being "incident to an arrest." Within the vehicle, Deputy Gaylog found a zippered case containing a white crystal substance, yellow circular pills, and red and blue circular pills; a fleece sack containing bags of a white crystal substance; a backpack containing a crystal substance, a container, a gold scale with white powdery residue, a black scale, and two iPhones. Based on his experience, Deputy Gaylog suspected that the drugs were methamphetamine.

{¶8} Deputy Gaylog transported Appellant to the sheriff's office, read him his *Miranda* rights, and questioned him. Appellant stated that he had been living in the white sedan for the past two months and that it was his primary mode of transportation. Appellant confirmed that he fled the traffic stop due to the large amount of controlled substances located in the vehicle. Appellant also stated that he bought the methamphetamine two days prior in Cleveland for $2,100 and that he dealt the drug throughout the Painesville area.

{¶9} Tyler Meader, a forensic analyst at the Lake County Crime Lab, tested the suspected drugs. He determined that the substances contained methamphetamine and that the scale contained methamphetamine and THC residue. According to Meader, the "bulk amount" for methamphetamine set forth by the Ohio Board of Pharmacy is three grams, and the total weight of the methamphetamine he tested was 397.79 grams.

{¶10} On September 5, 2025, the Lake County Grand Jury indicted Appellant for aggravated possession of drugs, a first-degree felony in violation of R.C. 2925.11(A) (count 1), and possessing criminal tools, a fifth-degree felony in violation of R.C. 2923.24 (count 2). Count 1 alleged that Appellant knowingly possessed methamphetamine, a Schedule II controlled substance, and that the amount exceeded 100 times the bulk amount, to wit: 397.79 grams. Count 1 included a major drug offender specification pursuant to R.C. 2941.1410.

{¶11} On October 7, 2025, Appellant, through appointed counsel, waived his right to be present at his arraignment and entered not-guilty pleas.

{¶12} On December 11, 2025, Appellant sent correspondence to the trial court indicating that appointed counsel was providing ineffective assistance. Appellant wrote that he and counsel had had "multiple arguments" and that counsel would not file a suppression motion. Appellant alleged that Deputy Gaylog violated his Fourth Amendment rights by calling him by someone else's name during his arrest. He further wrote that it would be unfair for current counsel to continue to represent him.

{¶13} The trial court caused Appellant's correspondence to be filed and scheduled a hearing.

{¶14} On December 18, 2025, the trial court held a hearing on Appellant's correspondence. Appellant reiterated his written allegations. The trial court explained that Appellant's scenario did not present a Fourth Amendment violation and that counsel is not permitted to file frivolous motions.

{¶15} One of Appellant's attorneys next addressed the court. She stated that she and co-counsel had a productive jail visit with Appellant on October 21 regarding discovery and that they told Appellant at that time it would be frivolous to file a motion to suppress. Counsel attempted to visit Appellant on November 12, but Appellant denied the visit. Since then, counsel had been "in constant contact" with Appellant through "numerous letters."

{¶16} The trial court informed Appellant that he had presented no grounds indicating that appointed counsel were not doing their jobs and denied Appellant's request to appoint new counsel. Appellant then stated that he would "purchase a lawyer." After clarifying Appellant's statement, the trial court instructed Appellant to tell "whoever it is that you purchase" that the case was going to trial on January 6, i.e., in two-and-a-half weeks, and would not be continued and that the plea deadline was December 23.

{¶17} Following the hearing, the trial court filed a judgment entry denying Appellant's request to appoint new counsel.

{¶18} On January 6, 2026, the matter was tried to a jury. The State presented testimony from Deputy Vandervort, Deputy Gaylog, and Mr. Meader. As exhibits, the State submitted numerous photographs, the suspected drugs, and the scales.

{¶19} Following the State's case-in-chief, the defense moved for acquittal pursuant to Crim.R. 29, which the trial court overruled. The defense rested without presenting evidence and renewed its Crim.R. 29 motion for acquittal, which the trial court overruled.

{¶20} On January 7, 2026, the jury returned guilty verdicts on both counts. The jury also found that the weight of the methamphetamine was equal to or more than 100 times the bulk amount.

{¶21} On January 8, 2026, the trial court held a sentencing hearing and sentenced Appellant to a mandatory, indefinite prison term of 11 to 16.5 years on count 1 and 11 months in prison on count 2, to be served concurrently, for an aggregate prison term of 11 to 16.5 years.

{¶22} On January 12, 2026, the trial court filed the sentencing entry.

{¶23} On February 5, 2026, Appellant timely appealed and raises three assignments of error.

Appointment of New Counsel

{¶24} Appellant's first assignment of error states: "THE TRIAL COURT ABUSED ITS DISCRETION AND VIOLATED APPELLANT'S SIXTH AMENDMENT RIGHT TO COUNSEL WHEN IT DENIED APPELLANT'S MOTION FOR NEW COUNSEL."

{¶25} In his first assignment of error, Appellant argues that the trial court erred by denying his request to appoint new counsel.

{¶26} A trial court's decision denying a request for new counsel is reviewed under an abuse-of-discretion standard. *State v. Cowans*, 1999-Ohio-250, ¶ 27.

{¶27} The Sixth Amendment to the federal Constitution provides that "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defense." "The Supreme Court of Ohio has determined that an indigent criminal defendant does not have a constitutional right to choose his court-appointed attorney; rather, he is only entitled to competent legal representation." *State v. Sanders*, 2008-Ohio-1126, ¶ 10 (11th Dist.); *see State v. Murphy*, 2001-Ohio-112, ¶ 50; *Cowans* at ¶ 27. "To discharge a court-appointed attorney, the defendant must show a breakdown in the attorney-client relationship of such magnitude as to jeopardize the defendant's right to effective assistance of counsel." *State v. Coleman*, 37 Ohio St.3d 286 (1988), paragraph four of the syllabus. The Court has "imposed an affirmative duty upon the trial court to inquire, on the record, into a defendant's complaints regarding the adequacy of his appointed counsel." *State v. Keith*, 1997-Ohio-367, ¶ 45. In particular, "[w]here, during the course of his trial for a serious crime, an indigent accused questions the effectiveness and adequacy of assigned counsel . . . , it is the duty of the trial judge to inquire into the complaint and make such inquiry a part of the record." *State v. Deal*, 17 Ohio St.2d 17 (1969), syllabus. "The trial judge may then require the trial to proceed with assigned counsel participating if the complaint is not substantiated or is unreasonable." *Id*.

{¶28} We find that the trial court did not abuse its discretion in denying Appellant's request to appoint new counsel. On appeal, Appellant asserts that there was a "complete and total" breakdown in communication between himself and counsel. However, the record does not support that assertion. Counsel acknowledged having disagreements with Appellant and that Appellant refused to permit counsel to visit him at the jail on one occasion. Despite those challenges, counsel stated that they were in "constant contact" with Appellant via "numerous letters."

{¶29} Appellant also asserts that the trial court effectively prevented him from retaining new counsel of his choice by stating that it would not continue the January 6 trial date. The hearing transcript indicates that Appellant's potential hiring of private counsel was purely speculative. Appellant mentioned the possibility of "purchas[ing] a lawyer," explaining that he had "family members." At the time of the hearing, however, Appellant had not filed a motion for a continuance.

{¶30} Accordingly, Appellant's first assignment of error is without merit.

Ineffective Assistance of Counsel

{¶31} Appellant's second assignment of error states: "APPELLANT RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL IN VIOLATION OF THE SIXTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND ARTICLE I, SECTION 10 OF THE OHIO CONSTITUTION WHEN TRIAL COUNSEL FAILED TO FILE A MOTION TO SUPPRESS EVIDENCE ON APPELLANT'S BEHALF."

{¶32} In his second assignment of error, Appellant argues that he received ineffective assistance of counsel when his trial counsel failed to file a motion to suppress the evidence discovered in the vehicle.

{¶33} "A convicted defendant's claim that counsel's assistance was so defective as to require reversal of a conviction . . . has two components." *Strickland v. Washington*, 466 U.S. 668, 687 (1984). "First, the defendant must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." *Id*. Specifically, "the defendant must show that counsel's representation fell below an objective standard of reasonableness . . . considering all the circumstances." *Id*. at 688.

{¶34} "Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable." *Id*. at 687. In other words, "[t]he defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different."

Id. at 694. “A reasonable probability is a probability sufficient to undermine confidence in the outcome.” *Id*.

{¶35} “‘[F]ailure to file a suppression motion does not constitute per se ineffective assistance of counsel.’” *State v. Madrigal*, 2000-Ohio-448, ¶ 50 quoting *Kimmelman v. Morrison*, 477 U.S. 365, 384 (1986). This Court has held that “[w]hen claiming ineffective assistance due to failure to file or pursue a motion to suppress, an appellant must point to evidence in the record showing there was a reasonable probability the result of trial would have differed if the motion had been filed or pursued.” *State v. Gaines*, 2007-Ohio-1375, ¶ 17 (11th Dist.). “If case law indicates the motion would not have been granted, then counsel cannot be considered ineffective for failing to prosecute it.” *Id*.

{¶36} Appellant acknowledges that allegedly being called the wrong name was a “legally flawed” basis to support a motion to suppress evidence. However, he contends that “the underlying facts of the search present a highly viable Fourth Amendment issue.” In particular, he argues that the search of the vehicle was not legally valid as a search subsequent to a lawful arrest or as an inventory search.

{¶37} “Under the Fourth Amendment, warrantless searches are per se unreasonable without prior approval by a judge or magistrate, subject to only a few specific exceptions.” *State v. Leak*, 2016-Ohio-154, ¶ 15, citing *Arizona v. Gant*, 556 U.S. 332, 338 (2009). “Two such exceptions are a search incident to a lawful arrest and an inventory search conducted pursuant to law enforcement's community-caretaking function.” *Id.*

{¶38} Regarding the first exception, the Supreme Court of Ohio has explained “[i]t is not unreasonable under the Fourth Amendment for a law-enforcement officer to search a vehicle without a warrant when a recent occupant of the vehicle has been arrested and (1) the arrestee is unsecured and within reaching distance of the vehicle or (2) it is reasonable to believe the vehicle contains evidence of the offense that led to the arrest." *Id*. at ¶ 16. Deputy Gaylog described his search of the vehicle as being incident to Appellant's arrest. Despite the deputy's characterization, however, Appellant is correct that there was no evidence establishing the above requirements other than the fact that Appellant was arrested.

{¶39} Regarding the second exception, the Supreme Court of Ohio has explained that "[i]n the interest of public safety, as part of the community-caretaking function of police, vehicles are frequently taken into police custody." *Leak* at ¶ 20. "Examples of vehicles taken into custody as part of law enforcement's community-caretaking role include those that have been in accidents, those that violate parking ordinances, *those that are* stolen or *abandoned*, and those that cannot be lawfully driven." (Emphasis added.) *Id*.

{¶40} Appellant contends that an inventory search was impermissible because the vehicle was "lawfully parked in a private driveway." However, there was no evidence at trial regarding who owned the driveway, much less that Appellant had the owner's permission to park there. Rather, Appellant's statements to Deputy Gaylog after his arrest indicate that he abandoned the vehicle in order to flee from police because of the large amount of drugs contained therein. Therefore, Appellant has not established a reasonable probability that a motion to suppress would have been successful.

{¶41} Accordingly, Appellant's second assignment of error is without merit.

Sufficiency of the Evidence

{¶42} Appellant's third assignment of error states: "THE STATE OF OHIO FAILED TO INTRODUCE EVIDENCE SUFFICIENT FOR A CONVICTION IN COUNT ONE OF THE INDICTMENT FOR AGGRAVATED POSSESSION OF DRUGS (METHAMPHETAMINE) IN VIOLATION OF R.C. 2925.11(A), WITH A MAJOR DRUG OFFENDER SPECIFICATION UNDER R.C. 2941.1410, IN VIOLATION OF APPELLANT'S RIGHT TO DUE PROCESS UNDER THE FIFTH AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION AND ARTICLE I, SECTION 16 OF THE OHIO CONSTITUTION."

{¶43} In his third assignment of error, Appellant argues that the State presented insufficient evidence to sustain his conviction for aggravated possession of drugs and the jury's finding that he is a major drug offender.

{¶44} "'"Sufficiency" is a term of art meaning that legal standard which is applied to determine whether the case may go to the jury or whether the evidence is legally sufficient to support the jury verdict as a matter of law.'" *State v. Thompkins*, 1997-Ohio-52, ¶ 23, quoting *Black's Law Dictionary* (6th Ed. 1990). "In essence, sufficiency is a test of adequacy." *Id*. "An appellate court's function when reviewing the sufficiency of the evidence to support a criminal conviction is to examine the evidence admitted at trial to determine whether such evidence, if believed, would convince the average mind of the defendant's guilt beyond a reasonable doubt." *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus. "The relevant inquiry is whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt." *Id*.

{¶45} Appellant was convicted of aggravated possession of drugs, a first-degree felony in violation of R.C. 2925.11(A). R.C. 2925.11(A) provides that "[n]o person shall knowingly obtain, possess, or use a controlled substance or a controlled substance analog." R.C. 2925.11(C)(1)(e) provides in relevant part:

> (C) Whoever violates division (A) of this section is guilty of one of the following:
>
>> (1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in schedule I or II, . . . whoever violates division (A) of this section is guilty of aggravated possession of drugs. The penalty for the offense shall be determined as follows:
>>
>> . . .
>>
>>> (e) *If the amount of the drug involved equals or exceeds one hundred times the bulk amount*, aggravated possession of drugs is a felony of the first degree, the offender is a major drug offender, and the court shall impose as a mandatory prison term a maximum first degree felony mandatory prison term.

(Emphasis added.)

{¶46} Appellant's sufficiency argument is somewhat complicated. In essence, Appellant argues that although Mr. Meader from the Lake County Crime Lab testified regarding "[t]he precise quantity and aggregate weight" of the drugs seized from the vehicle, the State failed to take the "requisite procedural step of qualifying Mr. Meader as an expert witness pursuant to" Evid.R. 702. Therefore, he contends that Mr. Meader's testimony was inadmissible.

{¶47} Appellant did not object to the admissibility of Mr. Meader's testimony at trial nor does he assert plain error on appeal. In addition, "when conducting a sufficiency of the evidence analysis, this court is to look at the actual evidence admitted at trial, both admissible and inadmissible." *State v. Mansfield*, 2008-Ohio-3989, ¶ 65 (11th Dist.).

Therefore, even if Mr. Meader's testimony was inadmissible, it would not require reversal of his conviction based on insufficiency of the evidence.

{¶48} Alternatively, Appellant argues that Mr. Meader's testimony was "factually incomplete." According to Appellant, Mr. Meader's testimony failed to establish whether the definition of "bulk amount" in R.C. 2925.01(D)(1)(f) or in (D)(1)(g) applied. Those provisions provide, in relevant part:

> (D) "Bulk amount" of a controlled substance means any of the following:
>
> > (1) For any compound, mixture, preparation, or substance included in schedule I, schedule II, or schedule III, . . . whichever of the following is applicable:
> >
> > . . .
> >
> > > (f) An amount equal to or exceeding one hundred twenty grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation, or substance that is or contains any amount of a schedule II stimulant that is in a final dosage form manufactured by a person authorized by the "Federal Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and the federal drug abuse control laws, as defined in section 3719.01 of the Revised Code, that is or contains any amount of a schedule II depressant substance or a schedule II hallucinogenic substance;
> > >
> > > (g) An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug, and Cosmetic Act and the federal drug abuse control laws.

{¶49} Thus, if the methamphetamine is in a final dosage form manufactured by a person authorized to do so by federal law, its "bulk amount" is an amount equal to or in excess of 120 grams "or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual[.]" R.C. 2925.01(D)(1)(f). If not, its "bulk amount" is equal to or in excess of three grams. R.C. 2925.01(D)(1)(g).

{¶50} This Court has explained that "the definition of 'bulk amount' under [R.C.] 2925.01 is a matter of law," while "'the questions of whether a substance seized from an accused is a drug of abuse and whether it exceeds the bulk amount are questions of fact' to which a competent expert is qualified to testify." *State v. Foster*, 2005-Ohio-5281, ¶ 42 (11th Dist.), quoting *State v. Montgomery*, 17 Ohio App.3d 258, 260 (1st Dist. 1984).

{¶51} Here, the record demonstrates that the definition of "bulk amount" in R.C. 2925.01(D)(1)(g) was applicable. In particular, the indictment alleged that the amount of methamphetamine that Appellant possessed exceeded "100 times the bulk amount, to-wit: 397.79 grams." The trial court instructed the jury that "[t]he bulk amount of methamphetamine is three grams." Mr. Meader testified that the total weight of the methamphetamine he tested was 397.79 grams, which exceeded 100 times the bulk amount of three grams. *See* R.C. 2925.11(C)(1)(e). Therefore, the State presented sufficient evidence, if believed, to sustain Appellant's conviction for aggravated possession of drugs as a first-degree felony.

{¶52} The authority that Appellant cites is distinguishable. In *State v. Williamson*, 2010-Ohio-5060 (3d Dist.), the defendant appealed the trial court's denial of his motion to withdraw his guilty plea to, among other charges, aggravated trafficking in drugs. *See id*. at ¶ 1, 18. The defendant argued that the amount and form of the methamphetamine that he sold constituted a lower degree felony rather than a second-degree felony. *Id*. at ¶ 20. The appellate court affirmed the trial court's denial, finding that "[t]he only evidence before the trial court that described the methamphetamine was the lab report," which did not indicate that the drugs were in “a final dosage form” under R.C. 2925.01(D)(1)(f). *Id*. at ¶ 23. Therefore, the defendant “failed to establish that his level of offense would have been less than the level of offense for which he was charged.” *Id*. Given *Williamson*’s procedural and factual differences to the present case, it does not support Appellant’s sufficiency argument.

{¶53} Accordingly, Appellant’s third assignment of error is without merit.

{¶54} For the foregoing reasons, the judgment of the Lake County Court of Common Pleas is affirmed.

MATT LYNCH, P.J.,

EUGENE A. LUCCI, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this court, Appellant's assignments of error are without merit. It is the judgment and order of this court that the judgment of the Lake County Court of Common Pleas is affirmed.

Costs to be taxed against Appellant.

JUDGE JOHN J. EKLUND

PRESIDING JUDGE MATT LYNCH,
concurs

JUDGE EUGENE A. LUCCI,
concurs

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY

A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.