

IN THE COURT OF APPEALS
TWELFTH APPELLATE DISTRICT OF OHIO
BUTLER COUNTY

STATE OF OHIO,	:	CASE NO. CA2026-01-010
Appellee,	:	
vs.	:	<u>OPINION AND</u>
	:	<u>JUDGMENT ENTRY</u>
JAMES A. JAMISON,	:	9/21/2026
Appellant.	:	
	:	

CRIMINAL APPEAL FROM BUTLER COUNTY AREA III COURT
Case No. TRC 2403646 A, B, C

Michael T. Gmoser, Butler County Prosecuting Attorney, and Michael Greer, Assistant Prosecuting Attorney, for appellee.

Goodpaster Law, L.L.C., and Cassandra S. Goodpaster, for appellant.

OPINION

BYRNE, P.J.

{¶ 1} James Jamison appeals his convictions entered by no contest pleas for driving under the influence of alcohol in violation of R.C. 4511.19(A)(1)(a) and for operation without reasonable control in violation of R.C. 4511.202(A), in the Butler County

Area III Court.¹ For the following reasons, we reverse and remand for further proceedings consistent with this opinion.

I. Factual and Procedural Background

{¶ 2} On August 18, 2024, Jamison was charged with the following three charges:

Count	Offense	Revised Code Section	Offense Level
1	Driving Under the Influence of Alcohol	R.C. 4511.19(A)(1)(a)	M1
2	Driving Under the Influence of Alcohol	R.C. 4511.19(A)(1)(d)	M1
3	Operation Without Reasonable Control	R.C. 4511.202(A)	Minor misdemeanor

{¶ 3} Jamison's charges stemmed from allegations that Jamison drove his vehicle into a hotel while under the influence of alcohol. Following the accident, West Chester Township Police Officer Nathan Maring responded to the scene and administered several field sobriety tests to Jamison, evidencing his intoxication. A few days later, Jamison was arraigned in the Butler County Area III Court on Counts 1-3. That same day, the court found Jamison indigent and appointed defense counsel for him.

{¶ 4} On January 10, 2025, Jamison's defense counsel filed a motion to suppress. In the motion, Jamison's counsel sought to exclude any evidence of the field sobriety tests performed on Jamison, any observations made by the law enforcement officers who arrived to the scene of the accident, and any statements Jamison may have made to police. On the same day, Jamison filed a pro se motion to remove his court appointed counsel. The court granted Jamison's motion and permitted Jamison to acquire retained counsel.

{¶ 5} On March 18, 2025, Jamison filed a motion to substitute counsel, stating

1. Butler County Area III Court is part of the county court district. In Butler County, the county court has been divided into three areas of separate jurisdiction (Areas I, II, and III). See R.C. 1907.15.

that he wanted the court to appoint new counsel because he could not afford to retain an attorney. A few weeks later, the court held Jamison's suppression hearing.

{¶ 6} At the hearing, the court indicated to Jamison that the parties were "[there] for a motion to suppress" and not "a full trial on the merits." The court went on to explain the structure of the suppression hearing, indicating that "[the State] [was] going to go first and put the officer . . . on the stand" and that Jamison was going to "let [the] court talk" and then the court was going to "let [Jamison] talk." The court further stated that after the State presented its evidence, the court was then "going to determine whether or not there was probable cause." The court indicated that "that's all [they were] going to do" at the suppression hearing.

{¶ 7} In response, Jamison reminded the court of his motion for substitute counsel. To this, the court stated that "[t]he case was going to proceed to [the] motion to suppress" without the court appointing counsel for Jamison.

{¶ 8} Specifically, the court acknowledged that "[i]t's the Court's obligation to provide [Jamison] with an attorney" but stated that "[i]t's not the Court's obligation to provide [Jamison] with an attorney of [his] choosing." The court then engaged Jamison in the following colloquy:

THE COURT: [Y]ou don't get to say, okay, I don't want Mr. Brewer now, you got to give me this attorney, Judge. First off, I don't have that ability. I have public defenders assigned to the room.

Second, once I've remove (sic) one, due to the nature of a conflict like this, there is not an option to just substitute someone else out. There's not a reason to appoint conflict counsel since there was no conflict here. You were just dissatisfied with Mr. Brewer's services. And I understand that attorneys are expensive. These things are difficult to navigate. Not unsympathetic that this happens, and this has been going on since August of 2024.

So if you were going to be able to retain an attorney, it would

have been my expectation certainly with January, February, March, we're now into April, we're four months later, there's no lawyer even it sounds like retained at this point, not even that they just couldn't appear today.

So what's going to happen for today's purposes is we're going to go ahead and hear the motion to suppress and then if I overrule the motion to suppress or if I grant it will determine where we go from there, which means, sir, you'll have some additional time to line up an attorney for trial if it proceeds to trial.

[JAMISON]: Okay.

{¶ 9} The court then conducted the suppression hearing without appointing Jamison an attorney, and with Jamison representing himself pro se. At the suppression hearing, the State presented one witness, Officer Maring, and admitted the officer's body camera footage, while Jamison admitted the police report into evidence.

{¶ 10} Subsequently, on May 20, 2025, the trial court issued a decision denying Jamison's motion to suppress. In its entry, the court stated that "[Jamison] was given an adequate opportunity to obtain legal counsel to aid him at the motion to suppress hearing" but "[o]nce [Jamison] failed to obtain substitute legal counsel within a reasonable time, the Court proceeded with [the] hearing on the Motion to Suppress and [Jamison] represented himself, pro se." The court in its entry also recognized that Jamison was "found to be indigent."

{¶ 11} Shortly after the trial court issued its entry, Jamison filed pro se objections to the court's entry denying his motion to suppress, arguing that the suppression hearing was not fair since he did not have an attorney, and that the outcome of the motion to suppress "probably" would have been different if he had defense counsel representing him.

{¶ 12} On October 1, 2025, Jamison filed a pro se "motion to set aside judgment ruling on the motion to suppress or for reconsideration," arguing that his Sixth Amendment

right to counsel was violated at his suppression hearing because the court did not appoint him an attorney, thereby forcing him to represent himself pro se.

{¶ 13} On October 20, 2025, a notice of substitution of counsel for Jamison was filed by his new court-appointed defense attorney. On November 18, 2025, the court issued a decision, denying Jamison's motion to set aside the motion to suppress judgment and to reconsider the motion to suppress. In its decision, the court noted that "[a]fter [Jamison] failed to obtain substitute legal counsel within a reasonable time, the Court proceeded with a hearing on the Motion to Suppress on April 11, 2025, due to the [Jamison's] inaction" and that Jamison "was represented pro se at the motion to suppress [hearing]." The court also noted that Jamison "did not formally object to the hearing moving forward at that time."

{¶ 14} On December 16, 2025, Jamison entered a no contest plea to Counts 1 and 3 and Count 2 was dismissed. The court then sentenced Jamison to 180 days in jail, with 177 days suspended; \$375 in court costs; a three-year license suspension; and one year of probation. The court then stayed Jamison's sentence pending his appeal.

{¶ 15} Jamison appealed, raising one assignment of error.

II. Law and Analysis

{¶ 16} Jamison's single assignment of error states:

The trial court violated Jamison's constitutional right to counsel by failing to appoint Jamison counsel for the suppression hearing. Sixth and Fourteenth Amendments to the United States Constitution; Article 1, section 10 of the Ohio Constitution.

{¶ 17} Jamison in his sole assignment of error argues that the trial court violated his constitutional right to counsel pursuant to the U.S. Constitution and the Ohio Constitution. The State concedes that Jamison's constitutional rights were violated when the trial court failed to provide him with an attorney at the suppression hearing. We agree.

A. Right to Counsel

{¶ 18} The Sixth Amendment of the United States Constitution states that "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence." U.S. Const., amend. VI. Article 1, Section 10 of the Ohio Constitution also states that "[i]n any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel." Ohio Const. art. 1, § 10.

{¶ 19} The assistance of counsel for indigent defendants has long been "'deemed necessary to insure fundamental human rights of life and liberty.'" *Gideon v. Wainwright*, 372 U.S. 335, 343 (1963), quoting *Johnson v. Zerbst*, 304 U.S. 458, 462 (1938). The "right to counsel applies to critical stages of criminal proceedings." *State v. Schleiger*, 2014-Ohio-3970, ¶ 13, citing *United States v. Wade*, 388 U.S. 218, 224 (1967). The right to counsel also extends to misdemeanor cases that could result in the imposition of a jail sentence. *State v. Wellman*, 37 Ohio St.2d 162, 171 (1974), citing *Argersinger v. Hamlin*, 407 U.S. 25, 37 (1972).

{¶ 20} In *Wade*, the U.S. Supreme Court recognized that "the accused is guaranteed that he need not stand alone against the State at any stage of the prosecution, formal or informal, in court or out, where counsel's absence might derogate from the accused's right to a fair trial." *Wade* at 226. Critical stages of criminal proceedings "include proceedings between an individual and agents of the state that amount to trial-like confrontations at which counsel would help the accused in coping with legal problems or meeting the adversary." *Schleiger* at ¶ 13, citing *Rothgery v. Gillespie Cty., Texas*, 554 U.S. 191, 212, fn. 16; *see also United States v. Ash*, 413 U.S. 300, 312 (1972).

{¶ 21} An accused may waive his right to counsel when he does so "'knowingly and intelligently.'" *Faretta v. California*, 422 U.S. 806, 835 (1975), quoting *Johnson* at 464; *see also State v. Gibson*, 45 Ohio St.2d 366, 407 (1976).

1. Analysis

{¶ 22} We agree with the State's concession that Jamison's fundamental right to counsel was violated when the trial court accepted his appointed attorney's withdrawal, failed to appoint Jamison new counsel when he requested such an appointment, and then required Jamison to proceed pro se at his suppression hearing, without a valid waiver of counsel.

{¶ 23} This is so because suppression hearings are adversarial hearings, in which the defense and the state present evidence and witnesses, and engage in trial-like confrontations. See *Village of Hudson v. South*, 99 Ohio App.3d 208, 211 (9th Dist. 1994) (finding that a motion to suppress hearing was a critical stage of the prosecution against a defendant because the "adversarial nature" of the hearing created a strong potential of prejudice against defendant's rights.).

{¶ 24} Because we find that Jamison's right to counsel attached to his suppression hearing, and that he did not waive that right, he was entitled to an attorney. Despite this entitlement, Jamison was forced to proceed with his suppression hearing pro se. Therefore, we hold that Jamison was denied his right to counsel at his suppression hearing.

{¶ 25} Accordingly, because Jamison was denied his right to counsel at his suppression hearing, we must now determine whether this violation amounts to structural error. Upon review, we find that it does.

B. Structural Error

{¶ 26} Jamison argues that the violation of his right to counsel in this case amounts to structural error and requires automatic reversal of his convictions, because the constitutional violation "contaminated the entire proceeding." On the other hand, the State argues that Jamison's right to counsel violation does not constitute structural error, and

relies heavily on *Satterwhite v. Texas*, 486 U.S. 249 (1988), to support its argument. We disagree with the State.

{¶ 27} It has been well established that a "structural error is a violation of the basic constitutional guarantees that define the framework of a criminal trial." *State v. West*, 2022-Ohio-1556, ¶ 2, citing *State v. Jones*, 2020-Ohio-3051, ¶ 2. Structural error has been recognized "only in limited circumstances involving fundamental constitutional rights, including the denial of counsel to an indigent defendant . . ." *Jones* at ¶ 2, citing *Weaver v. Massachusetts*, 582 U.S. 286, 296 (2017).

{¶ 28} Recently, in *Weaver*, the United States Supreme Court recognized that there are "at least three broad rationales for finding an error to be structural." *Weaver* at 295. First, the Supreme Court noted that an error is structural "if the right at issue is not designed to protect the defendant from erroneous conviction but instead protects some other interest." *Id.* Second, the Supreme Court acknowledged that an error is structural "if the effects of the error are simply too hard to measure." *Id.* Lastly, the Supreme Court noted that "an error has been deemed structural if the error always results in fundamental unfairness" such as when "*an indigent defendant is denied an attorney . . .*" (Emphasis added.) *Id.* at 296.

{¶ 29} Because Jamison, as an indigent defendant, was deprived of an attorney at a critical stage of his criminal proceedings, we hold that his right to counsel violation constitutes structural error. We note, however, that not all structural errors require automatic reversal; structural error is grounds for automatic reversal only when the accused objects to the error at the trial court. *West* at ¶ 2, citing *Jones* at ¶ 2. "But when the accused fails to object to the error in the trial court, appellate courts apply the plain-error standard of review, shifting the burden to the accused to demonstrate that the error affected the trial's outcome." *West* at ¶ 2, citing *Jones* at ¶ 17.

{¶ 30} Here, the structural error—depriving an indigent defendant of counsel—requires automatic reversal because Jamison objected to the trial court's error when he reminded the trial court at the beginning of his suppression hearing that he filed a motion to substitute counsel after the court told him that he was going to represent himself pro se. Jamison also objected to the structural error in his objections to the trial court's decision denying his motion to suppress, arguing that it was fundamentally unfair for the trial court to force him to represent himself at his suppression hearing. Therefore, the plain-error standard of review does not apply, and Jamison's convictions warrant automatic reversal.

{¶ 31} Likewise, we agree with Jamison's argument that the State's reliance on *Satterwhite* is misguided, because that case only addressed whether "it was harmless error to introduce psychiatric testimony" in a capital sentencing proceeding, not whether an accused's right to counsel violation in the context of a suppression hearing amounts to structural error. *Satterwhite*, 486 U.S. at 251. Therefore, the State's application of *Satterwhite* is inapplicable to this case.

{¶ 32} Thus, we find that the trial court committed structural error that requires automatic reversal.

{¶ 33} Accordingly, we sustain Jamison's sole assignment of error and reverse his convictions.

{¶ 34} Judgment reversed and remanded.

PIPER AND SIEBERT, JJ., concur.

JUDGMENT ENTRY

The assignment of error properly before this court having been ruled upon, it is the order of this court that the judgment or final order appealed from be, and the same hereby is, reversed and remanded for further proceedings consistent with the above Opinion.

It is further ordered that a mandate be sent to the Butler County Area III Court for execution upon this judgment and that a certified copy of this Opinion and Judgment Entry shall constitute the mandate pursuant to App.R. 27.

Costs to be taxed in compliance with App.R. 24.

/s/ Matthew R. Byrne, Presiding Judge

/s/ Robin N. Piper, Judge

/s/ Melena S. Siebert, Judge