

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

|                   |   |                        |
|-------------------|---|------------------------|
| STATE OF OHIO,    | : | CASE NO. CA2025-06-040 |
| Appellee,         | : |                        |
| vs.               | : | <u>OPINION AND</u>     |
|                   | : | <u>JUDGMENT ENTRY</u>  |
| JOHN LUKE DAWSON, | : | 10/26/2026             |
| Appellant.        | : |                        |
|                   | : |                        |

CRIMINAL APPEAL FROM WARREN COUNTY COURT OF COMMON PLEAS  
Case No. 22CR39635

David P. Fornshell, Warren County Prosecuting Attorney, and Kirsten A. Brandt, Assistant Prosecuting Attorney, for appellee.

Christopher Bazeley, for appellant.

**OPINION**

**DONOVAN, J.**

{¶ 1} John Dawson appeals from his conviction in the Warren County Court of Common Pleas, Criminal Division, for drug-related offenses. The basis of his appeal centers on his contention that his constitutional and statutory speedy trial rights were

violated. Dawson also argues that his trial counsel was ineffective and that his convictions were against the manifest weight of the evidence. For the reasons discussed below, we affirm Dawson's convictions and sentence and deny his ineffective assistance of counsel claim.

### **I. Factual and Procedural Background**

{¶ 2} On December 8, 2021, the Warren County Drug Task Force received information from the Northeast Kentucky Drug Task Force informing the Warren County Police that Dawson had a warrant out for his arrest. Pursuant to the arrest warrant, Warren County police officers arrested Dawson at a Warren County gas station. The police conducted a search of Dawson's vehicle which led to the discovery of marijuana, a box of latex gloves, a digital scale with white residue on it, and sandwich baggies. The next day, the police officers obtained and executed a valid search warrant of Dawson's vehicle and found 79.72 grams of fentanyl and para-fluorofentanyl.

{¶ 3} On August 15, 2022, a Warren County grand jury indicted Dawson on five counts as listed:

| <b>Count</b> | <b>Offense</b>                             | <b>Revised Code Section</b>                     | <b>Offense Level</b> |
|--------------|--------------------------------------------|-------------------------------------------------|----------------------|
| 1            | Trafficking in a Fentanyl-Related Compound | R.C. 2925.03(A)(2),<br>R.C.<br>2925.03(C)(9)(g) | F1                   |
| 2            | Possession of a Fentanyl-Related Compound  | R.C. 2925.11(A),<br>R.C.<br>2925.11(C)(11)(f)   | F1                   |
| 3            | Aggravated Trafficking in Drugs            | R.C. 2925.03(A)(2),<br>R.C.<br>2925.03(C)(1)(c) | F3                   |
| 4            | Aggravated Possession of Drugs             | R.C. 2925.11(A),<br>R.C.<br>2925.11(C)(1)(b)    | F3                   |
| 5            | Possessing Criminal Tools                  | R.C. 2923.24(A),<br>R.C. 2923.24(C)             | F5                   |

{¶ 4} The indictment arose following the search of Dawson's vehicle and due to allegations that Dawson was a known distributor of fentanyl and was the subject of an ongoing narcotics investigation. On January 17, 2023, the Warren County Sheriff's Office attempted to serve Dawson with the indictment at his Michigan address but failed.

{¶ 5} On March 11, 2024, the trial court filed Dawson's Notice of Untried Indictment Agreement on Detainers Form I, II, III, and IV, dated February 27, 2024. The Notice of Untried Indictment indicated that Dawson was serving a prison sentence at the Blackburn Correctional Complex in Lexington, Kentucky on charges unrelated to this appeal. On May 28, 2024, Dawson was served the indictment, and he was arraigned a few days later on May 30, 2024.

{¶ 6} On June 1, 2024, defense counsel filed various discovery motions including a request for Brady materials. A few months later, on August 28, 2024, defense counsel filed a motion to suppress evidence. The trial court held the suppression hearing on October 24, 2024. On November 25, 2024, defense counsel filed a supplemental motion to suppress evidence. On December 10, 2024, the court denied Dawson's motion to suppress.

{¶ 7} On December 23, 2024, Dawson's defense counsel filed a motion for leave to withdraw as trial counsel for Dawson. On January 16, 2025, the court found Dawson indigent and appointed Dawson a new defense counsel. On the same day, the court issued an entry ordering the extension of speedy trial time.

{¶ 8} On May 13, 2025, Dawson waived his right to a trial by jury, and the court set a bench trial to commence on June 3, 2025. On May 21, 2025, defense counsel filed a response to the State's demand for discovery.

{¶ 9} On June 3, 2025, the court held a bench trial. At trial, the State presented two witnesses—Ohio Highway Patrol Trooper, Justin Van Meter, and Warren County detective, Dan Schweitzer.

**A. State Trooper Justin Van Meter's Direct Examination Testimony**

{¶ 10} In Van Meter's testimony, he indicated that he was a state trooper for the Ohio State Highway Patrol, and that he worked with the K-9 unit. He testified that he was assigned to his K-9 partner, Gabi.

{¶ 11} Van Meter testified that on December 8, 2021, he received a phone call from agent Brian McDavid of the Northeast Kentucky Drug Task Force, advising him that "they had an ongoing narcotics investigation into an individual named John Luke Dawson" and that Dawson was "a known distributor of fentanyl in the Ashland, Kentucky, area." Van Meter also testified that McDavid advised him that "they had a warrant out for [Dawson's] arrest through Kentucky." Van Meter testified that he confirmed Dawson's arrest warrant through the National Criminal Check Leads data system.

{¶ 12} Van Meter stated that McDavid told him that Dawson drove a white "2015 Chevy Impala" with a Kentucky registration and provided him with Dawson's license plate information. Van Meter testified that McDavid wanted him to "try and locate [Dawson] and take [him] into custody on that warrant." Van Meter stated that he agreed to help assist McDavid and the Northeast Kentucky Drug Task Force.

{¶ 13} Van Meter testified that he relayed the information given from McDavid to his task force, which included the description of Dawson's vehicle and his photograph. Van Meter testified that he traveled to "Interstate 75 . . . around the Franklin, Ohio, area in Warren County" with his task force. Around that location, one of the task force members

"observed that [Dawson's] vehicle [was] pulling into the Sunoco lot" in Warren County. Van Meter also testified that based on his experience and training, Interstate 75 was an interstate used by drug traffickers to use and transport drugs.

{¶ 14} Van Meter testified that when his task force identified Dawson, Van Meter "continued south on 75 to the next crossover to turn around and come back towards the scene." When Van Meter arrived at the scene, he testified that his task force had "already made contact" with Dawson and testified that Dawson was "seated in Trooper's Lee's patrol vehicle." Van Meter identified Dawson as the defendant at trial.

{¶ 15} Van Meter testified that he "[p]erformed a free-air sniff of [Dawson's] vehicle" for "narcotics detection." Van Meter described a "free air K-9 sniff" as "[w]alking the dog around that vehicle as he sniffs that air around that vehicle to see if he displays an alert or indication to an odor that he's trained to detect, which would be a narcotic odor."

{¶ 16} Van Meter testified that while performing the free air sniff alongside Dawson's vehicle, "Gabi changed his breathing" and his "head snapped very quickly which [Van Meter] started to recognize as an alert." Van Meter testified that "[Gabi] then continued his deep breathing . . . [d]ove underneath [Dawson's] vehicle and just laid down and stared up at the vehicle giving his final indication that he had detected an odor that he's trained to detect." Van Meter testified that Gabi was trained to detect "marijuana, cocaine, crack cocaine, heroin, methamphetamine, and any other derivatives" like "fentanyl."

{¶ 17} Van Meter testified that based on Gabi's alert, he conducted a search of Dawson's vehicle. Van Meter testified that "[i]n the trunk" he located a "small amount of

marijuana" and "[b]ehind the trunk panels up towards the rear passenger seat" he found "a box of latex gloves, a digital scale, and sandwich baggies." Van Meter also testified that "there were some loose panels on the inside of the vehicle around the center console" and that "there w[ere] some longer lug nuts on all of the wheels that were aftermarket . . . which kind of caught [his] attention because they were factory rims or wheels on [Dawson's] vehicle."

{¶ 18} The State then showed Van Meter Exhibit 7, which Van Meter identified as the digital scale he found in Dawson's vehicle. Van Meter testified that scales are "indicative of just weighing out contraband" and "[m]aking sure that you have the right weight if you're selling to customers . . . or making sure that you have the right amount that you ordered."

{¶ 19} The State then handed Exhibit 8 to Van Meter, which Van Meter identified as the sandwich baggies he found in Dawson's vehicle. Van Meter testified that sandwich baggies were used "a lot of times . . . to package up narcotics."

{¶ 20} The State then handed Van Meter Exhibit 9, which he identified as the box of gloves he found in Dawson's vehicle. Van Meter testified that based on his experience, he had "seen people use gloves to keep fingerprints off of items such as baggies, especially if they're distributing some type of narcotic" to protect themselves "from a dangerous drug that could be transdermal and enter your blood stream through your skin." Van Meter confirmed that fentanyl is a drug that can be transdermal.

{¶ 21} Van Meter testified that after Dawson was arrested, Steve's Towing towed and secured Dawson's vehicle in its lot in Butler County. Van Meter testified that Steve's

Towing lot was a secure lot and is fenced. Van Meter testified that he could not remember if Dawson's vehicle was locked before it was towed.

{¶ 22} Van Meter testified that after Dawson's vehicle was towed, McDavid informed him that pursuant to a search warrant of Dawson's home, police located a "pile of lug nuts in the garage" which gave Van Meter suspicion that drugs were in the rims of Dawson's vehicle. Van Meter testified that he reached out to the Butler County Prosecutor's Office, which told him to draft a search warrant for Dawson's vehicle. After drafting a search warrant, and getting it signed, Van Meter testified that he "looked into the car above the driver's head . . . normally where there's your dome light and your sunglasses holder" and he found "there was a plastic baggie containing a white or off-white powdery substance." Van Meter testified that State's Exhibit 4 was the bag that was seized and placed into evidence.

{¶ 23} The State then presented Exhibit 1 to Van Meter, which he testified was the evidence bag that had fentanyl in it. The defense stipulated that State's Exhibit 1 contained fentanyl. Van Meter testified that State's Exhibit 1 was submitted to the Ohio BCI Lab for analysis and that it contained Dawson's case number and item number.

#### **B. State Trooper Justin Van Meter's Cross-Examination Testimony**

{¶ 24} On cross-examination, Van Meter testified that along with sandwich bags, gloves, and scales, "large amounts of currency" are usually found on someone who is involved in the drug business. Van Meter testified that Dawson was not found with large amount of currency when the police searched his vehicle, but Van Meter testified that people have "many different places to store their money." Van Meter also testified that

the drugs found in Dawson's vehicle could have been "hand-to-hand transactions of smaller amounts."

{¶ 25} Van Meter also testified that he didn't know if Steve's Towing had any "security systems or not" and stated he didn't know if he locked Dawson's vehicle before leaving the lot.

#### **C. State Trooper Justice Van Meter's Re-Direct Examination Testimony**

{¶ 26} On re-direct examination, Van Meter testified that he regularly relies and acts on information from other law enforcement officers.

#### **D. Detective Dan Schweitzer's Direct Examination Testimony**

{¶ 27} The State then questioned detective Dan Schweitzer. Schweitzer testified that he worked as a detective for the Warren County Sherriif's Office for the past 24 years and is a part of the office's drug task force. Schweitzer testified that he participated in the investigation of Dawson.

{¶ 28} Schweitzer testified that Van Meter informed him and the task force of Dawson's information. After the briefing of the task force, Schweitzer testified that he staged himself at interstate "123, 75 exit" and "wait[ed]to jump behind [Dawson's] vehicle." He testified that his "first purpose was to identify [Dawson's] vehicle" and his "second purpose was to identify [Dawson] in the vehicle."

{¶ 29} Schweitzer testified that he identified Dawson's going into a Sunoco gas station, and that he followed him into the gas station. He testified that he observed Dawson's vehicle park at a gas pump but recognized that Dawson did not get gas. Schweitzer testified that he observed Dawson exit the driver's side of the vehicle and go inside the Sunoco gas station. Schweitzer testified that Dawson went in the gas station

for a short time and that he believed that Dawson knew that police followed him. He testified that Dawson was "cleaning himself" which meant that he was "walking in the gas station" . . . "[l]ooking around, mak[ing] sure that . . . he was good." He further testified that Dawson "came back out and got in the vehicle without purchasing anything."

{¶ 30} Schweitzer testified that once Dawson started to pull out of the gas station, another state trooper, "Trooper Lee" stopped Dawson. Schweitzer testified that he detained Dawson and assisted in Dawson's arrest.

{¶ 31} Schweitzer testified that he was also present for Van Meter's "free-air sniff" and that the items found in Dawson's vehicle were in the trunk.

{¶ 32} He testified that he authored a search warrant and an affidavit which was presented before a Butler County Common Pleas judge because Dawson's vehicle was towed to a Butler County lot.

{¶ 33} He testified that the search warrant was signed by the judge on December 9, 2021. He testified that on that same day when he arrived at Steve's Towing lot, police were already searching Dawson's vehicle. He testified that he personally witnessed drugs being discovered in the dome light car of Dawson's vehicle.

{¶ 34} The State then presented Exhibit 1 and Exhibit 5 to Schweitzer. He confirmed that Exhibit 5 was the lab report of the drugs and that it corresponded with the lab identification number on Exhibit 1. He testified that Exhibit 5 indicated the substance found in Dawson's vehicle was a mixture of "fentanyl and Para-fluorofentanyl" in the amount of "79.72 grams."

### **E. Detective Dan Schweitzer's Cross-Examination Testimony**

{¶ 35} Schweitzer testified that when looking for someone who is active in trafficking drugs, he usually looks for "inconsistent stories . . . a pattern of past practices meaning they've already been indicted for trafficking . . . scales, gloves, money, dope, guns, [and] ledger." He also testified that police found a white substance on Dawson's scale but that it was not tested. Schweitzer testified that when "[y]ou know a guy that's got 79 grams of fentanyl and has a scale with residue on it" it is safe to say that "it's probably residue from fentanyl or cocaine." Schweitzer testified that he believed the residue was fentanyl. He also testified that he believed that Steve's Towing lot had a secure fence area.

### **F. Defense's Rule 29 Motion**

{¶ 36} After the State presented its witnesses, and admitted Exhibits 1 through 9, the defense made a "Rule 29 Motion as to all of the charges." The court overruled the defense's motion, "considering the evidence in the light most favorable to the State." The defense then rested.

### **G. Trial Court's Findings**

{¶ 37} The court found Dawson guilty on all counts. The court stated that it "considered and reviewed the evidence, the exhibits, the arguments of counsel" and found that "the State ha[d] met its burden." The court found that "[t]his drug was within [Dawson's] immediate reach so it was within his possession or control." The court also found that "[s]everal factors of circumstantial evidence surrounding [the] matter indicate[d] that it was more likely his as well." The court further found that the drugs were "in excess of 79 grams" and found "[Dawson] guilty of trafficking in fentanyl related compound . . .

[g]uilty of possession of fentanyl related compound . . . [g]uilty of aggravated trafficking in drugs . . . [g]uilty of possession of aggravated drugs" and "[g]uilty of possession of criminal tools."

{¶ 38} On June 5, 2023, the court issued an entry finding Dawson guilty on Counts 1 through 5 of the indictment and sentenced him to an indefinite sentence of a minimum of 11 years with a maximum of 16.5 years in prison.

{¶ 39} Dawson appealed, raising four assignments of error.

## **II. Law and Analysis**

{¶ 40} We will address each of Dawson's assignments of error in turn.

### **A. Statutory Speedy Trial Rights**

{¶ 41} Dawson's first assignment of error states:

THE TRIAL COURT VIOLATED DAWSON'S STATUTORY  
RIGHT TO A SPEEDY TRIAL.

{¶ 42} In his first assignment of error, Dawson argues the trial court erred in denying his statutory right to a speedy trial in violation of R.C. 2941.401.

{¶ 43} Dawson did not make a speedy trial request pursuant to R.C. 2941.401 but requested for "final disposition" of his charges in Warren County pursuant to the Interstate Agreement on Detainers ("IAD").

{¶ 44} "[T]he IAD is a congressionally sanctioned interstate compact under the Compact Clause, Article I, Section 10, of the United States Constitution" and is subject to federal law. *State v. Black*, 2015-Ohio-513, ¶ 4, citing *Carchman v. Nash*, 473 U.S. 716, 719 (1985). Specifically, the IAD is a "compact among 48 states, the District of Columbia, and the United States that establishes procedures for one jurisdiction to obtain temporary

custody of a prisoner incarcerated in another jurisdiction for the purpose of bringing the prisoner to trial." *Black* at ¶ 3, citing *Cuyler v. Adams*, 449 U.S. 433, 435 (1981). The "objective of the IAD is 'to implement a defendant's right to a speedy trial and to avoid excessive interference with a prisoner's rehabilitation in the state prison system.'" *Black* at ¶ 7, quoting *United States v. Palmer*, 574 F.2d 164, 167 (3d Cir. 1978). In Ohio, the IAD is codified at R.C. 2963.30. *State v. Racicot*, 2019-Ohio-1191, ¶ 12 (12th Dist.).

{¶ 45} "The IAD and R.C. 2941.401 contain similar language, but the IAD applies to prisoners who are incarcerated in one state or in a federal prison but are accused of having committed crimes in another state, whereas R.C. 2941.401 applies to prisoners who are accused of having committed crimes in Ohio and are held in Ohio state prisons. See *State v. Williams*, 2023-Ohio-3647, ¶ 13. Because Dawson made a "final disposition request" from the Blackburn Correctional Complex in Kentucky, the Ohio speedy trial statute, R.C. 2941.401, is inapplicable and the IAD applies.

{¶ 46} We note that Dawson in his reply brief concedes the IAD applies instead of R.C. 2941.401 but argues that his speedy trial rights were still violated because "the record shows that the state was served on the same day the IAD Notice was filed, March 11, 2024." But a party cannot raise an argument for the first time in their reply brief. See *U.S. Bank Natl. Assn. v. Daugherty*, 2026-Ohio-870, ¶ 42, fn. 5 (12th Dist.), citing *Seipelt v. Seipelt*, 2023-Ohio-4468, ¶ 19, fn. 5 (12th Dist.) ("[A]n appellant may not raise new arguments or issues in a reply brief."). Therefore, Dawson's IAD notice argument is not properly before us. Thus, we overrule Dawson's first assignment of error, as he waived his IAD argument.

{¶ 47} Even if we were to consider Dawson's IAD argument in his reply brief, his argument is unpersuasive. Dawson argues the State was provided with sufficient notice of Dawson's IAD request because the "record shows that the state was served on the same day the IAD notice was filed, March 11, 2024."

{¶ 48} But after a review of the record, we agree with the State that "it is unclear when the prosecutor was served with its copy of the IAD notice as required by R.C. 2963.30." In fact, the record is void of any indication that the State was ever properly notified of Dawson's IAD request. As this court most recently explained, the plain language of the IAD states that the IAD speedy trial clock does not commence until "the final disposition request is *delivered*, which is when the final disposition request is 'forwarded . . . [by the warden] to the appropriate prosecuting official and court *by registered or certified mail*.'" (Emphasis in original.) *State v. Conway*, 2026-Ohio-2353, ¶ 25 (12th Dist.), quoting R.C. 2963.30, Article III(b); *see also Fex v. Michigan*, 507 U.S. 43, 52 (1993) (holding that the speedy trial "time period in Article III(a) of the IAD does not commence until the prisoner's request for final disposition . . . has actually been delivered to the court and prosecuting officer of the jurisdiction that lodged the detainer against [the prisoner.]").

{¶ 49} Here, the record does not provide any evidence establishing that Dawson's final disposition request was ever actually delivered to the Warren County Prosecutor's Office by registered or certified mail, as the IAD requires. Therefore, there was no IAD violation, as the IAD speedy trial timeline did not commence.

{¶ 50} Thus, we therefore overrule Dawson's first assignment of error.

## **B. Constitutional Speedy Trial Rights**

{¶ 51} Dawson's second assignment of error states:

THE TRIAL COURT VIOLATED DAWSON'S  
CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL.

{¶ 52} Dawson argues that the trial court erred in denying his right to a speedy trial pursuant to the U.S. Constitution and the Ohio Constitution. For both constitutional arguments, Dawson heavily relies on the U.S. Supreme Court case, *Barker v. Wingo*, 407 U.S. 514 (1972), in contending that his constitutional right to a speedy trial was violated.

{¶ 53} The State argues that Dawson "waived the right to challenge his convictions on speedy trial grounds" because he "never challenged his prosecution through a pretrial motion to dismiss, either on statutory or constitutional grounds."

{¶ 54} We agree with the State that Dawson's constitutional argument is waived as he failed to challenge it before the trial court. See *State v. Moren*, 2024-Ohio-4528, ¶ 19 (12th Dist.), quoting *State v. Keating*, 2020-Ohio-2770, ¶ 27 (12th Dist.) ("We have consistently held that 'a party cannot raise new issues or legal theories for the first time on appeal because such issues or theories are deemed waived.'"). Therefore, we overrule his second assignment of error.

{¶ 55} Even if we were to consider the merit of Dawson's argument, we would find that Dawson's constitutional rights were not violated. We will address Dawson's federal and state constitutional violation arguments together, as they involve the same legal analysis.

## **1. Merits of Dawson's Constitutional Speedy Trial Argument**

{¶ 56} The Sixth Amendment to the United States Constitution and Article I, Section 10 of the Ohio Constitution guarantee the right to a speedy trial. U.S. Const., amend. VI; Ohio Const., art. I, § 10.

{¶ 57} The United States Supreme Court, in *Barker v. Wingo*, 407 U.S. 514, 530 (1972), set forth a balancing test that considers the following four factors in determining whether trial delays were reasonable under the Sixth and Fourteenth Amendments to the United States Constitution: (1) the length of delay, (2) the reason the government assigns to justify the delay, (3) the defendant's assertion of his right to a speedy trial, and (4) the prejudice to the defendant. "None of these four factors are determinative of whether an accused suffered a violation of his constitutional right to a speedy trial; rather, the court must consider the four factors collectively." *State v. Colquitt*, 2025-Ohio-2727, ¶ 18 (12th Dist.), citing *Barker* at 533.

{¶ 58} "The first factor, the length of the delay, is a 'triggering mechanism,' determining the necessity of inquiry into the other factors." *State v. Thacker*, 2020-Ohio-1318, ¶ 40 (12th Dist.), quoting *State v. Triplett*, 78 Ohio St.3d 566, 569 (1997). "Generally, a delay that approached one year is presumptively prejudicial." *Colquitt* at ¶ 19, quoting *State v. Long*, 2020-Ohio-5363, ¶ 14 (12th Dist.). "Unless there is some delay which is 'presumptively prejudicial, there is no necessity of inquiry into the other factors that go into balance.'" *Thacker* at ¶ 40, quoting *Barker* at 530. "Once the *Barker* analysis is triggered, the length of delay, beyond the initial threshold showing, is again considered and balances against the other relevant factors." *Colquitt* at ¶ 19, citing *State v. Hubbard*, 2015-Ohio-646, ¶ 15 (12th Dist.). For constitutional violation purposes, the speedy trial

clock commences when there has been an "arrest, indictment, or other official accusation" against the offender. *Doggett v. United States*, 505 U.S. 647, 655 (1992).

{¶ 59} Here, the Warren County Grand Jury indicted Dawson on August 15, 2022, and his trial date was on June 3, 2025.<sup>1</sup>

{¶ 60} Therefore, the length of delay from the filing of Dawson's indictment to his trial was two years, nine months, and 19 days. Because the delay was over a year, the *Barker* factors are triggered, and we must conduct an analysis on each factor.

## **2. Analysis of the Barker Factors**

### **a. Length of Delay**

{¶ 61} Although the delay was two years and nine months, the first *Barker* factor carries little weight for Dawson. While Dawson's case was pending in Warren County, he was being held at the Blackburn Correctional Complex in Lexington, Kentucky, for offense unrelated to this appeal. See *Hubbard* ¶ 17-18 (finding length of delay weighed only slightly in favor of defendant where he was already incarcerated on unrelated charges).

### **b. Reason for Delay**

{¶ 62} The second Barker factors weighs heavily in favor of the State because much of the delay is attributable to Dawson. One of the reasons for the delay was that the State could not locate Dawson. The State tried to serve Dawson his indictment at his home address in Michigan in January 2023 but failed. The State was only put on notice to the location of Dawson in March 2024 because Dawson made a Notice of Untried Indictment, indicating he was serving a prison sentence at the Blackburn Correctional

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1. We note that we are not considering the day Dawson was arrested as the start of the length of delay as Dawson was arrested on December 9, 2021, in Warren County pursuant to his Kentucky charges which are unrelated to this appeal.

Complex in Lexington, Kentucky. Two months after Dawson's Notice of Untried Indictment, the State successfully served Dawson the indictment on May 28, 2024, and two days later he was arraigned, on May 30, 2024. Dawson's trial commenced 12 months and a few days thereafter on June 3, 2025.

{¶ 63} The 12-months and few days delay from Dawson's arraignment to his trial was also attributable to Dawson, as he made various discovery requests, a motion to suppress and changed counsel, throughout the course of his case.<sup>2</sup> On January 26, 2025, the trial court extended Dawson's speedy trial time by entry. Therefore, the reason for delay factors weigh in favor of the State, as much of the delay was attributed to Dawson.

### **c. Accused's Assertion of His Right**

{¶ 64} An accused's assertion of, or failure to assert, his speedy-trial right is a factor to be considered in determining whether an accused's constitutional rights were violated. *Barker* at 528; *Long* at 14. In analyzing this factor, the court may weigh the "frequency and force of the objections as opposed to attaching significant weight to a purely pro forma objection. *Barker* at 529

{¶ 65} At the trial court, Dawson never asserted his right to speedy trial, nor did Dawson object to any delay at his bench trial. Dawson only asserted his right to a speedy trial on appeal. Therefore, this factor weighs against him, and in favor of the State.

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2. On June 1, 2024, Dawson filed a discovery motion; on August 8, 2024, Dawson made an oral motion to continue, which he concedes tolled speedy trial time; on August 28, 2024, Dawson filed a motion to suppress, and on January 16, 2025, Dawson filed a motion to continue, which he concedes tolled speedy trial time.

#### **d. Prejudice to the Accused**

{¶ 66} The final factor we must consider is the prejudice to the accused. In *Barker*, the United States Supreme Court identified three interests that the speedy-trial right is designed to protect: (1) oppressive pretrial incarceration, (2) the anxiety and concern of the accused, and (3) the possibility that the accused's defense will be impaired. *Barker* at 532. "Of these, the most serious is the last, because the inability of a defendant adequately to prepare his case skews the fairness of the entire system." *Id.* A defendant is prejudiced if a witness dies, disappears, or is unable to accurately recall events of the distant past. *Id.*

{¶ 67} Dawson asserts that he was "prejudiced in that he endured the natural stress that arises from facing a serious criminal charge for 450 days." Dawson's blanket statement, without more, that he suffered stress caused by the delay is insufficient to show the type of prejudice required for a violation of constitutional speedy-trial rights. See *Hubbard* at ¶ 23.

{¶ 68} Moreover, because Dawson was held in Kentucky on separate charges, he did not suffer oppressive pretrial incarceration due to any delay in this case. *Id.* Likewise, Dawson has not presented any evidence to indicate that the delay of the trial impaired any witnesses or his defense.

{¶ 69} Accordingly, our review of the *Barker* factors leads us to the conclusion that Dawson's constitutional right to a speedy trial was not violated. Thus, we overrule his second assignment of error.

#### **C. Ineffective Assistance of Counsel**

{¶ 70} Dawson's third assignment of errors states:

DAWSON'S TRIAL COUNSEL WAS INEFFECTIVE FOR  
FAILING TO MOVE TO DISMISS THIS CASE FOR  
VIOLATIONS OF HIS STATUTORY AND CONSTITUTIONAL  
RIGHTS TO A SPEEDY TRIAL.

{¶ 71} In Dawson's third assignment of error, he argues his trial counsel was "ineffective for failing to move to dismiss [his] case because of the violation of his statutory and constitutional rights to a speedy trial." We disagree.

{¶ 72} To prevail on an ineffective assistance of counsel claim, Dawson must show his defense counsel's performance was deficient, and that he was prejudiced as a result. *State v. Clarke*, 2016-Ohio-7187, ¶ 49 (12th Dist.); *Strickland v. Washington*, 466 U.S. 668, 687 (1984). Defense counsel's performance will not be deemed deficient unless it fell below an objective standard of reasonableness. *Strickland* at 688. To show prejudice, Dawson must establish that, but for his trial counsel's errors, there is a reasonable probability that the result of his trial would have been different. *Id.* at 694. The failure to satisfy either prong of the *Strickland* test is fatal to an ineffective assistance of counsel claim. See *State v. Bowling*, 2025-Ohio-2272, ¶ 48 (12th Dist.), citing *Clarke* at ¶ 49. We strongly presume that defense counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Bowling* at ¶ 48, citing *State v. Burns*, 2014-Ohio-4625, ¶ 7 (12th Dist.). It is "all too tempting" to "second-guess counsel's assistance after conviction or adverse sentence . . ." *Strickland* at 689.

**1. Speedy Trial Claims Presented in Ineffective Assistance of Counsel Argument**

{¶ 73} Although Dawson waived his constitutional and statutory speedy trial arguments on appeal, some Ohio courts have held that a defendant can still raise a constitutional speedy trial claim in the context of an ineffective assistance of counsel

claim. See *South Euclid v. Schutt*, 2020-Ohio-3361, ¶ 13 (8th Dist.), citing *Cleveland v. White*, 2013-Ohio-5423, ¶ 7 (8th Dist.) ("Generally, the failure to raise the violation of speedy trial rights in the trial court constitutes a waiver of the defense on appeal. However, a defendant may raise a speedy trial claim in the context of ineffective assistance of counsel.").

{¶ 74} "[T]o demonstrate that counsel provided ineffective assistance of counsel by failing to file a motion to dismiss for speedy trial violations, the defendant must show that the motion would have been successful and the case would likely have been dismissed." *South Euclid* at ¶ 13. "Counsel cannot be ineffective for failing to file a fruitless motion." (Cleaned up.) *Id.*, quoting *State v. Cottrell*, 2012-Ohio-4583, ¶ 8 (4th Dist.).

{¶ 75} Here, Dawson's counsel was not ineffective for failing to file a motion to dismiss for violations of his statutory and constitutional right to a speedy trial because, as previously explained above, there were no statutory or constitutional speedy trial violations. Because there were no violations, Dawson's counsel was not ineffective and filing such a motion would have been fruitless.

{¶ 76} Therefore, we overrule Dawson's third assignment of error, as Dawson fails to present evidence that his counsel was ineffective.

#### **D. Manifest Weight**

{¶ 77} Dawson's fourth and final assignment of error states:

DAWSON'S CONVICTIONS ARE SUPPORTED BY  
LEGALLY INSUFFICIENT EVIDENCE AND AGAINST THE  
WEIGHT OF THE EVIDENCE.

{¶ 78} In Dawson's fourth and final assignment of error, he argues that "the convictions on all counts one through four are not supported by legally sufficient evidence or the weight of the evidence" because "police failed to properly secure [Dawson's] vehicle" at Steve's Towing lot, which—he argues—led to the "reasonability possibility that drugs could have been placed in [his car] after it was impounded."

{¶ 79} Dawson also argues that because there was a reasonable probability that the drugs were placed in Dawson's vehicle, the State "failed to prove that Dawson knowingly possessed or trafficked [fentanyl] as required by R.C. 2925.03 and R.C. 2925.11."

{¶ 80} And for his conviction of Possession of Criminal Tools, Dawson argues that finding a scale, latex gloves, and a box of Ziploc bags alone in his vehicle was not enough to convict him of Possession of Criminal Tools. We disagree with his arguments.

### **E. Sufficiency and Manifest Weight Evidence**

{¶ 81} "When reviewing the sufficiency of the evidence underlying a conviction, an appellate court examines the evidence to determine whether such evidence, if believed, would convince the average mind of the defendant's guilt beyond a reasonable doubt." *State v. Madden*, 2024-Ohio-2851, ¶ 31 (12th Dist.), citing *State v. Paul*, 2012-Ohio-3205, ¶ 9 (12th Dist.). Therefore, "[t]he 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." *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus.

{¶ 82} "A manifest weight of the evidence challenge examines the 'inclination of the greater amount of credible evidence, offered at a trial, to support one side of the issue

rather than the other." *Madden* at ¶ 32, quoting *State v. Barnett*, 2012-Ohio-2372, ¶ 14 (12th Dist.). "To determine whether a conviction is against the manifest weight of the evidence, the reviewing court must look at the entire record, weigh the evidence and all reasonable inferences, consider the credibility of the witnesses, and determine whether in resolving the conflicts in the evidence, the trier of fact clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed, and a new trial ordered." *Madden* at ¶ 32, citing *State v. Graham*, 2009-Ohio-2814, ¶ 66 (12th Dist.).

{¶ 83} In reviewing the evidence, an appellate court must be mindful that the original trier of facts was in the best position to judge the credibility of witnesses and determine the weight to be given to the evidence. *State v. Blankenburg*, 2012-Ohio-1289, ¶ 114 (12th Dist.). An appellate court will overturn a conviction due to the manifest weight of the evidence only in the exceptional case in which the evidence weighs heavily against the conviction. *State v. Zitney*, 2021-Ohio-466, ¶ 15 (12th Dist.).

{¶ 84} "Although the legal concepts of sufficiency of the evidence and weight of the evidence are both quantitatively and qualitatively different, '[a] determination that a conviction is supported by the manifest weight of the evidence will also be dispositive of the issue of sufficiency.'" *State v. Billingsley*, 2020-Ohio-2673, ¶ 15 (12th Dist.), quoting *State v. Jones*, 2013-Ohio-150, ¶ 19 (12th Dist.).

### **1. Counts 1-4 Analysis**

{¶ 85} The trial court, after a bench trial, found Dawson guilty of Trafficking in a Fentanyl-Related Compound, and Aggravated Trafficking in Drugs in violation of R.C. 2925.03(A)(2). That statute states:

No person shall knowingly . . . [p]repare for shipment, ship, transport, deliver, prepare for distribution, or distribute a controlled substance or a controlled substance analog, when the offender knows or has reasonable cause to believe that the controlled substance or controlled substance analog is intended for sale or resale by the offender or another person.

{¶ 86} The trial court also found Dawson guilty of Possession of a Fentanyl-Related Compound and Aggravated Possession of Drugs in violation of R.C. 2925.11(A) which states that "[n]o person shall knowingly obtain, possess, or use a controlled substance or a controlled substance analog."

{¶ 87} Both R.C. 2925.03(A)(2) and 2925.11(A) use the mens rea of "knowingly" which Dawson argues was not present because someone placed the fentanyl in his vehicle.

{¶ 88} R.C. 2901.22(B) states:

A person acts knowingly, regardless of purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist. When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person subjectively believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning a fact.

{¶ 89} "Absent a defendant's admission regarding his knowledge, whether a person acts knowingly can only be determined from all the surrounding facts and circumstances, including the doing of the act itself." *State v. Cherry*, 2025-Ohio-5802, ¶ 34 (12th Dist.), quoting *Madden*, 2024-Ohio-2851 at ¶ 39. "The state can prove knowledge through either direct or circumstantial evidence." *Cherry* at ¶ 34, quoting *State v. Jordan*, 2023-Ohio-3800, ¶ 26. "Circumstantial evidence is 'proof of facts by direct

evidence from which the trier of fact may infer or derive by reasoning other facts.'" *Madden* at ¶ 39, quoting *State v. Raleigh*, 2010-Ohio-2966, ¶ 46 (12th Dist.).

{¶ 90} While considering the totality of the evidence at trial, we find the State presented ample evidence that Dawson knowingly transported and possessed fentanyl in violation of R.C. 2925.03(A)(2) and R.C. 2925.11(A).

{¶ 91} Dawson's argument—that he did not knowingly transport or possess fentanyl because there was a reasonable probability that it was placed in his car by someone else at Steve's lot—is unfounded as Van Meter and Schweitzer both testified that Steve's Towing lot was secure and protected by a fence. Even though Van Meter testified that he could not remember if he locked Dawson's vehicle door before it was sent to Steve's lot, and that he was unaware of the security measures at Steve's, the trial court was at liberty to believe his testimony, as well as Schweitzer's, in stating that they believed it was a secure lot. See *State v. Abbott*, 2026-Ohio-2127, ¶ 21 (12th Dist.), quoting *State v. Macpherson*, 2024-Ohio-5359, ¶ 21 (12th Dist.) ("A conviction is not against the manifest weight of the evidence merely because there is conflicting evidence before the trier of fact or because the trier of fact believed the testimony of the state's witnesses.").

{¶ 92} Moreover, the State presented evidence that this was not the first time Dawson was accused/suspected of transporting and possessing fentanyl. The evidence established that he was already a part of an ongoing drug investigation and was known for trafficking fentanyl in the Ashland, Kentucky area. Likewise, after a search of Dawson's vehicle, 79 grams of fentanyl was discovered in the dome-light of his vehicle, along with a scale with white residue, sandwich baggies, and the latex gloves, which Van Meter testified as common items used for trafficking and selling drugs.

{¶ 93} Therefore, based upon the totality of evidence, the trial court could have reasonably concluded that Dawson knew he was transporting and possessing fentanyl. This is not one of the exceptional cases where the verdict weighed heavily against the evidence. Having found that the trial court's verdict was not against the manifest weight of the evidence, we also find that Dawson's challenge to the sufficiency of the evidence is without merit. *Billingsley*, 2020-Ohio-2673 at ¶ 15. Therefore, we affirm the trial court's convictions on Counts 1 through 4.

## **2. Count 5 - Possession of Criminal Tools**

{¶ 94} In conjunction with the evidence previously mentioned, it was also not unreasonable for the trial court to convict Dawson of Possession of Criminal Tools, in violation of R.C. 2923.24(A).

{¶ 95} R.C. 2923.24(A) states that "[n]o person shall possess or have under the person's control any substance, device, instrument, or article, with purpose to use it criminally." R.C. 2923.24(C) states that, "[w]hoever violates this section is guilty of possessing criminal tools . . . If the circumstances indicate that the substance, device, instrument, or article involved in the offense was intended for use in the commission of a felony, possessing criminal tools is a felony of the fifth-degree."

{¶ 96} Dawson argues that the scale, latex gloves, and sandwich baggies that were found in his car are innocent items and not criminal tools. But, when considering the totality of the evidence, the evidence reveals that it was reasonable for the trial court to convict Dawson of possession of criminal tools. As stated previously, Dawson was known to be in the business of selling and trafficking fentanyl and was found with 79 grams of it in his vehicle. Van Meter and Schweitzer testified that collectively, these items are

commonly found on those who sell fentanyl. Moreover, there was evidence presented that the scale had white powder on it which resembled fentanyl. Although Dawson argues that the scale was not a criminal tool because the white powder was not tested, the State did not need to test the white powder to prove that Dawson possessed criminal tools when considering the totality of the evidence. Therefore, there was sufficient evidence to prove Possession of Criminal Tools, and the court did not lose its way or create a manifest miscarriage of justice when it convicted Dawson of Possession of Criminal Tools.

{¶ 97} Thus, we overrule Dawson's fourth assignment of error.

### **III. Conclusion**

{¶ 98} For these reasons, we find that Dawson's statutory and constitutional speedy trial rights were not violated and consequently deny his ineffective assistance of counsel claim. We also find that Dawson's convictions for Counts 1 through 5 are supported by sufficient evidence as well as the greater weight of evidence. Accordingly, finding no merit to any of the arguments raised herein, we overrule Dawson's four assignments of error.

{¶ 99} Judgment affirmed.

HENDRICKSON, P.J., and SIEBERT, J., concur.

Donovan, J., retired, of the Second Appellate District, sitting by assignment of the Chief Justice, pursuant to Section 6(C), Article IV of the Ohio Constitution.

**JUDGMENT ENTRY**

The assignments 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, affirmed.

It is further ordered that a mandate be sent to the Warren County Court of Common Pleas 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/ Robert A. Hendrickson, Presiding Judge*

*/s/ Melena S. Siebert, Judge*

*/s/ Mary E. Donovan, Judge*