

IN THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CLARK COUNTY

STATE OF OHIO

Appellee

v.

BRADLEY M. TRENT

Appellant

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C.A. No. 2025-CA-85

Trial Court Case No. 25-CR-480

(Criminal Appeal from Common Pleas
Court)

**FINAL JUDGMENT ENTRY &
OPINION**

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Pursuant to the opinion of this court rendered on August 28, 2026, the judgment of the trial court is affirmed.

Costs to be paid as stated in App.R. 24.

Pursuant to Ohio App.R. 30(A), the clerk of the court of appeals shall immediately send a copy of the court's ruling to each party and note that action on the docket. Additionally, pursuant to App.R. 27, the clerk of the court of appeals shall send a certified copy of this judgment, which constitutes a mandate, to the clerk of the trial court and note the service on the appellate docket.

For the court,



ROBERT G. HANSEMAN, JUDGE

LEWIS, P.J., and TUCKER, J., concur.

OPINION
CLARK C.A. No. 2025-CA-85

CHIMA R. EKEH, Attorney for Appellant
JOHN M. LINTZ, Attorney for Appellee

HANSEMAN, J.

{¶ 1} Appellant Bradley M. Trent appeals from his conviction in the Clark County Common Pleas Court on one count of attempted murder with a firearm specification. In support of his appeal, Trent claims that his trial counsel provided ineffective assistance in various respects. Trent also claims that the trial court abused its discretion by failing to consider his post-sentence motion to withdraw guilty plea. For the reasons outlined below, Trent’s judgment of conviction is affirmed.

Facts and Course of Proceedings

{¶ 2} On June 30, 2025, a Clark County grand jury returned an indictment charging Trent with single counts of attempted murder, felonious assault, discharge of a firearm on or near a prohibited premises, and tampering with evidence. All of the charged offenses carried a firearm specification. The charges for attempted murder and felonious assault each carried a repeat violent offender specification as well. Trent pled not guilty to all of the charges, and his case was scheduled for trial on September 2, 2025.

{¶ 3} On the day of trial, Trent’s counsel filed two motions requesting a trial continuance. In the first motion, counsel requested a continuance because Trent had been recently indicted in a separate case and counsel wanted “the opportunity to negotiate a universal resolution for both cases.” In the second motion, counsel requested a continuance because “[t]he State recently provid[ing] additional discovery materials.” The trial court granted the continuance and rescheduled Trent’s trial for October 27, 2025.

{¶ 4} While awaiting trial, Trent filed several pro se “entries” from jail. On September 3 and 12, 2025, Trent submitted entries alleging that he was not of sound mind when he was interviewed by the police. On September 26, 2025, Trent filed another entry in which he complained about his counsel not consulting with him. On October 17, 2025, Trent filed a pro se motion for new counsel and a letter to the trial court in which he claimed that his counsel had been rendering ineffective assistance. Trent complained that his counsel had not consulted with him about his case until October 6, 2025, and had not filed a motion to suppress his statements to police.

{¶ 5} On October 20, 2025, Trent entered a negotiated guilty plea to the charge of attempted murder with a firearm specification. In exchange for his guilty plea, the State agreed to dismiss all of the remaining charges and specifications and to jointly recommend an agreed sentence of 12 to 16.5 years in prison. The parties also agreed that Trent would not receive a post-release control sanction for committing the attempted murder offense while on post-release control.

{¶ 6} During the plea hearing, Trent advised the trial court that he was dissatisfied with his counsel’s lack of communication with him. In response, the trial court advised Trent that he did not have to enter a guilty plea. Trent, however, told the trial court that he was still “gonna take the plea.” Plea Hearing Tr. 15. The trial court thus proceeded with its plea colloquy, and Trent entered his guilty plea to attempted murder with a firearm specification. The trial court accepted Trent’s plea and imposed the agreed sentence.

{¶ 7} On October 31, 2025, Trent filed a pro se Crim.R. 32.1 motion to withdraw guilty plea. Twelve days later, Trent filed the instant appeal from his conviction. The trial court never issued a ruling on Trent’s motion to withdraw his plea. Trent now raises two assignments of error for our review.

First Assignment of Error

{¶ 8} Under his first assignment of error, Trent claims that his trial counsel provided ineffective assistance by (1) filing frivolous motions to continue trial as opposed to pursuing a speedy-trial violation claim, (2) failing to adequately consult with him about his plea, and (3) failing to file a motion to suppress his statements to police.

Standard of Review

{¶ 9} We review alleged instances of ineffective assistance of counsel under the two-part analysis found in *Strickland v. Washington*, 466 U.S. 668 (1984), which the Supreme Court of Ohio adopted in *State v. Bradley*, 42 Ohio St.3d 136 (1989). To prevail on an ineffective-assistance claim, a defendant must show that his trial counsel rendered deficient performance and that counsel's deficient performance prejudiced him. *Strickland* at 687; *Bradley* at paragraph two of the syllabus. The failure to make a showing of either deficient performance or prejudice defeats a claim of ineffective assistance of counsel. *Strickland* at 697.

{¶ 10} A trial counsel's performance is deemed deficient if it falls below an objective standard of reasonable representation. *Id.* at 688. When evaluating counsel's performance, a reviewing court "must indulge in a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance." *Id.* at 689. "Debatable strategic and tactical decisions may not form the basis of a claim for ineffective assistance of counsel, even if, in hindsight, it looks as if a better strategy had been available." *State v. Hall*, 2021-Ohio-1894, ¶ 55 (2d Dist.), citing *State v. Cook*, 65 Ohio St.3d 516, 524 (1992). Accordingly, this court will not second-guess decisions of counsel that may be considered matters of strategy. *Id.*, citing *State v. Smith*, 17 Ohio St.3d 98 (1985).

{¶ 11} To establish prejudice, the defendant must show that there is “a reasonable probability that, but for counsel’s errors, the proceeding’s result would have been different.” *State v. Hale*, 2008-Ohio-3426, ¶ 204, citing *Strickland* at 687-688 and *Bradley* at paragraph two of the syllabus. “A plea of guilty waives any claim that the accused was prejudiced by ineffective assistance of trial counsel, except to the extent that the ineffectiveness alleged may have caused the guilty plea to be less than knowing, intelligent, and voluntary.” *State v. Stivender*, 2011-Ohio-247, ¶ 15 (2d Dist.), citing *State v. Barnett*, 73 Ohio App.3d 244 (2d Dist. 1991). “Only if there is a reasonable probability that, but for counsel’s errors, the defendant would not have pleaded guilty but would have insisted on going to trial will the judgment be reversed.” *State v. Huddleson*, 2005-Ohio-4029, ¶ 9 (2d Dist.) (citing cases).

Filing “Frivolous” Motions to Continue Trial

{¶ 12} Trent claims that his trial counsel provided ineffective assistance by filing frivolous motions to continue his trial. Trent argues that there was no valid reason for requesting a trial continuance and that if counsel had not moved for and obtained a continuance, he would have had a viable speedy-trial violation claim. He also claims that counsel’s allegedly deficient performance in that regard prejudiced him, because it left him with no choice but to accept the plea agreement.

{¶ 13} Trent’s argument fails because Trent did not have a viable speedy-trial violation claim when his counsel moved for a trial continuance. Because Trent was incarcerated during the pendency of this case, he had to be tried within 90 days after his arrest. R.C. 2945.71(C)(2) and (E). The record indicates that Trent was arrested on June 17, 2025, and 16 days later, on July 3, 2025, his counsel filed a demand for discovery and a bill of particulars—an act that tolled speedy-trial time pursuant to R.C. 2945.72(E). *State v. Knott*, 2024-Ohio-2289, ¶ 22 (2d Dist.) (citing cases). Even if Trent’s speedy-trial time had

not been tolled, only 77 days elapsed between Trent's arrest and counsel's filing the two motions to continue trial. It is clear that Trent did not have a viable speedy-trial violation claim when his counsel moved for a trial continuance.

{¶ 14} The decision either to move for a trial continuance or to await a *potential* speedy-trial violation is a matter of trial strategy that cannot form the basis of an ineffective assistance claim. *State v. Layne*, 2002-Ohio-6134, ¶ 24-30 (4th Dist.), citing *State v. Traylor*, 1988 WL 28148, *3 (12th Dist. Mar. 7, 1988). Indeed, "there are significant strategic and tactical reasons why a lawyer might choose to file for a continuance in lieu of awaiting a potential speedy-trial violation." *Id.* at ¶ 27, citing *Traylor* at *3.

{¶ 15} In *Traylor*, the appellant argued that his trial counsel provided ineffective assistance by requesting a trial continuance three days before the speedy-trial period was set to expire, thus waiving his right to have his case dismissed on speedy-trial grounds. The Twelfth District Court of Appeals disagreed with that argument, stating:

[E]ven if a continuance was not requested, appellant would not have been entitled to a discharge for lack of a speedy trial. Furthermore, the continuance was requested because counsel needed more time to prepare for trial. If counsel was not prepared to go to trial, the failure to request a continuance might be perceived as a violation of counsel's duty "to bring to bear such skill and knowledge as will render the trial a reliable adversarial testing process." *Strickland v. Washington*, [466 U.S.] at 688, 104 S.Ct. at 2065. The additional time for trial preparation would be necessary in order for counsel to fulfill his duty "to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary." *Id.*, at 691, 104 S.Ct. at 2066. The accused must show that the

representation was unreasonable and that the challenged action was not sound trial strategy. *Id.*; *Kimmelman v. Morrison* (1986), 477 U.S. 365, 106 S.Ct. 2574, 2588.

We perceive no violation of an essential duty in counsel's challenged action. If counsel was unprepared for trial, then his duty was to request a continuance. Had counsel relied entirely on a potential speedy trial dismissal, and if a motion for such had been denied by the trial court, counsel would have thrust both himself and his client into the unenviable position of trying a case for which he was unprepared.

Traylor at *3.

{¶ 16} Facing the same issue, the Fourth District Court of Appeals in *Layne* followed *Traylor*. The court explained:

Should we adopt the argument of Layne [that counsel was ineffective for requesting a trial continuance as opposed to waiting for a potential speedy-trial violation], then future trial lawyers presented with this situation would be caught at an impasse: if the trial counsel chose to file a motion for continuance, then her assistance could be perceived to be deficient because she should have awaited the potential speedy-trial violation; however, if the trial counsel chose to await the potential speedy-trial violation and then lost on a motion to dismiss on that basis, then her assistance could be perceived to be deficient because she went to trial unprepared.

It is for this reason that appellate courts are not in the business of instructing trial lawyers how to conduct the strategic and tactical

components of their cases. Absent a demonstration that the trial counsel failed to adequately consider her client's best interests, trial lawyers must be free to use their learned judgment in resolving strategic and tactical issues on a case-by-case basis.

Layne, 2002-Ohio-6134, at ¶ 29-30 (4th Dist.).

{¶ 17} In this case, the record indicates that counsel's two motions to continue trial were not frivolous and that they were made with Trent's best interest in mind. Counsel requested a continuance because the State had recently provided the defense with additional discovery materials, and also because Trent had been recently indicted in a separate case and counsel wanted "the opportunity to negotiate a universal resolution for both cases." Requesting a continuance for these reasons served Trent's best interest because counsel would have needed more time to review the additional discovery and to adjust his case strategy based on Trent's newly indicted charges. Counsel's decision to request a trial continuance as opposed to awaiting a potential speedy-trial violation was matter of trial strategy that cannot form the basis of an ineffective assistance claim. *Layne* at ¶ 24-30. Trent has not established deficient performance on the part of his trial counsel, and thus he cannot sustain his ineffective assistance claim based on counsel's motions to continue his trial.

Failing to Adequately Consult About Plea

{¶ 18} Trent next argues that his counsel provided ineffective assistance by failing to adequately consult with him about his plea. He claims that his counsel did not advise him that his guilty plea would waive his right to appeal his conviction on speedy-trial grounds.

{¶ 19} Trent's argument lacks merit because any argument about what counsel did or did not communicate to him prior to his plea is outside of the record. It is well established

that “[o]ff-the-record events or conversations will not support an ineffective-assistance claim on direct appeal.” *State v. Cole*, 2025-Ohio-675, ¶ 7 (2d Dist.), citing *State v. King*, 2024-Ohio-4705, ¶ 10 (2d Dist.), citing *State v. McElrath*, 2024-Ohio-2475, ¶ 21 (2d Dist.); see also *State v. Jordan*, 2021-Ohio-2332, ¶ 24 (2d Dist.), citing *State v. Qualls*, 2015-Ohio-2182, ¶ 15 (2d Dist.). Even if we presumed that Trent’s counsel was deficient for failing to advise him that a guilty plea would waive his ability to appeal his conviction on speedy-trial grounds, Trent cannot establish any resulting prejudice because it is clear from the record that Trent had no viable speedy-trial claim to assert. Trent’s claim that his trial counsel provided ineffective assistance by not adequately consulting with him about his plea lacks merit.

Failing to File a Motion to Suppress

{¶ 20} For his last ineffective-assistance claim, Trent argues that his counsel was ineffective for failing to file a motion to suppress the statements he had made to the police while he was allegedly intoxicated. Trent claims that he had asked his counsel to file a motion to suppress on that basis but that counsel declined. Trent maintains that if his counsel had not performed deficiently in that regard and had filed a motion to suppress, he would not have entered his guilty plea.

{¶ 21} “[T]o demonstrate ineffective assistance of counsel for failure to file a motion to suppress, a defendant must ‘establish that a basis existed to suppress’ the evidence in question.” *State v. Celaya*, 2025-Ohio-5246, ¶ 20 (2d Dist.), quoting *State v. Adams*, 2004-Ohio-5845, ¶ 35. ““Thus, the failure to file a motion to suppress constitutes ineffective assistance of counsel only when the record establishes that the motion would have been successful if made.”” *Id.*, quoting *State v. Geraldts*, 2025-Ohio-2209, ¶ 25 (1st Dist.), quoting *State v. Rosemond*, 2019-Ohio-5356, ¶ 34 (1st Dist.). “Where the record contains no

evidence which would justify the filing of a motion to suppress, the appellant has not met his burden of proving that his attorney violated an essential duty by failing to file the motion.” *State v. Drummond*, 2006-Ohio-5084, ¶ 208, quoting *State v. Gibson*, 69 Ohio App.2d 91, 95 (8th Dist. 1980).

{¶ 22} In this case, the record does not contain any evidence of the circumstances surrounding Trent’s interactions with the police. Trent’s bare assertion in his pro se entries that he was intoxicated during his police interview is insufficient to establish that his counsel was deficient for failing to file a motion to suppress on that basis.

{¶ 23} Trent’s argument is also purely speculative, as he claims that there was a “likelihood” or a chance that the evidence against him would have been suppressed had his counsel filed a motion to suppress. It is well established that “mere speculation cannot support either the deficient performance or prejudice requirement of an ineffective-assistance claim.” *State v. Morgan*, 2018-Ohio-3198, ¶ 16 (2d Dist.), citing *State v. Short*, 2011-Ohio-3641, ¶ 119, and *State v. Perez*, 2009-Ohio-6179, ¶ 217. Significantly, Trent’s claim that he would not have entered his guilty plea had his counsel filed a motion to suppress relies on the presumption that the motion would have been granted. Because it is unclear whether a motion to suppress would have been granted, Trent cannot establish any resulting prejudice. This basis of Trent’s ineffective assistance claim also lacks merit.

{¶ 24} Trent’s first assignment of error is overruled.

Second Assignment of Error

{¶ 25} Under his second assignment of error, Trent claims that the trial court abused its discretion by failing to consider his post-sentence motion to withdraw guilty plea that he filed under Crim.R. 32.1. The trial court never issued a ruling on the motion. Trent, however, filed the motion only 12 days before he filed this appeal.

{¶ 26} It is well established that “once an appeal is perfected, the trial court is divested of jurisdiction over matters that are inconsistent with the reviewing court’s jurisdiction to reverse, modify, or affirm the judgment.” *State ex rel. Electronic Classroom of Tomorrow v. Cuyahoga Cty. Court of Common Pleas*, 2011-Ohio-626, ¶ 13, quoting *State ex rel. Rock v. School Emp. Retirement Bd.*, 2002-Ohio-3957, ¶ 8. Therefore, “we have repeatedly held that the filing of a notice of appeal from a conviction and sentence divests the trial court of jurisdiction to address a motion to withdraw the defendant’s plea during the pendency of the appeal.” *State v. Lauharn*, 2012-Ohio-1572, ¶ 7 (2d Dist.) (citing cases).

{¶ 27} Here, once Trent appealed, the trial court was divested of jurisdiction to rule on his motion to withdraw guilty plea. Although it could be argued that the motion may be presumed overruled by the trial court’s failure to act on it, we find that because Trent filed his appeal only 12 days after filing the motion, it is likely that the trial court did not have enough time to rule on the motion before being divested of jurisdiction. When Trent appealed, the State had not responded to the motion. Moreover, under Sup.R. 5.23(A)(3), formerly Sup.R. 40(A)(3), the trial court had a duty to rule on a motion within 120 days. The trial court still had ample time to act on the motion before Trent filed his appeal.

{¶ 28} Additionally, the absence of a decision on Trent’s motion to withdraw guilty plea bars this court from considering the motion. “A claim is not ripe for appellate review unless the trial court “has arrived at a definitive position on the issue that inflicts an actual, concrete injury.”” *Gibson v. Gibson*, 2023-Ohio-1072, ¶ 14 (2d Dist.), quoting *Rickard v. Solley*, 2010-Ohio-2786, ¶ 33 (7th Dist.), quoting *Karches v. Cincinnati*, 38 Ohio St.3d 12, 14-15 (1988); accord *State v. Rhines*, 2025-Ohio-1571, ¶ 35 (2d Dist.) (declining to rule on an issue not decided by the trial court).

{¶ 29} Because the trial court was divested of jurisdiction to rule on Trent’s motion to withdraw guilty plea, we find that the court did not err by failing to consider the motion. Once this appeal is complete and the trial court decides the motion, Trent can appeal from that ruling if he so desires.

{¶ 30} Trent’s second assignment of error is overruled.

Conclusion

{¶ 31} Having overruled both of Trent’s assignments of error, the judgment of the trial court is affirmed.

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LEWIS, P.J., and TUCKER, J., concur.