

**IN THE COURT OF APPEALS OF OHIO
THIRD APPELLATE DISTRICT
ALLEN COUNTY**

STATE OF OHIO,

CASE NO. 1-25-30

PLAINTIFF-APPELLEE,

v.

JEREMIAH E. WASHINGTON,

**OPINION AND
JUDGMENT ENTRY**

DEFENDANT-APPELLANT.

**Appeal from Allen County Common Pleas Court
Trial Court No. CR2024 0178**

Judgment Affirmed

Date of Decision: September 8, 2026

APPEARANCES:

***Craig M. Jaquith* for Appellant**

***John R. Willamowski, Jr.* for Appellee**

MILLER, J.

{¶1} Defendant-appellant, Jeremiah E. Washington (“Washington”), appeals the June 6, 2025 judgment of the Allen County Court of Common Pleas. For the reasons that follow, we affirm.

{¶2} The case arises from a July 17, 2024 incident where the victim, L.H., was shot and robbed at Bill’s Drive-Thru in Lima, Ohio. On September 12, 2024, Washington was indicted by the Allen County Grand jury two counts: Count One of aggravated robbery in violation of R.C. 2911.01(A)(1), a first-degree felony; and Count Two of felonious assault in violation of R.C. 2903.11(A), a second-degree felony. The counts also included specifications for a firearm pursuant to R.C. 2941.145(A) and forfeiture of a weapon. At his initial appearance on September 20, 2024, Washington entered a not-guilty plea to the indictment and the trial court appointed counsel.

{¶3} A jury trial was held on June 3-5, 2025. L.H. testified at trial that he was familiar with Washington from school. L.H. stated that on the morning of July 17, 2024, Washington asked to purchase marijuana from him. L.H. stated that he and Washington walked from the Maplewood Apartments to Bill’s Drive Thru on North West Street in Lima, Ohio so that Washington could buy cigarettes while waiting for funds to arrive via a cash-transfer app.

{¶4} According to L.H., as the pair approached the convenience store entrance, Washington walked closely behind him. Then, L.H. felt a gun on his back.

The gun was fired and a bullet struck L.H.'s left arm and another bullet grazed his knee. L.H. testified that he heard a voice say "run that shit" around the time that the gunshots were fired.

{¶5} L.H. collapsed to the ground as a result of the gunshots and later received medical treatment for his injuries, including surgery, and sustained lasting, perhaps permanent, nerve damage to his arm and hand. L.H. later realized he was missing \$80 or \$90 in cash and a small amount of marijuana that he was carrying.

{¶6} William McKissick, the owner of Bill's Drive-Thru, observed two men, one white and one black, approaching the entrance of the store together. While McKissick's attention was directed to another customer, McKissick heard four gunshots and observed L.H. run forward briefly and then collapse. The other male grabbed L.H. and said "[g]ive me your shit." McKissick testified that he kept a handgun by the cash register for his safety and that he drew his gun and fired at the black male, wearing a red sweatshirt, that was running away.

{¶7} Quaytavius Lewis ("Lewis") testified that he was staying in the Maplewood Apartments in Apartment 47 with his then girlfriend at the time of the incident. According to Lewis, around the time of July 17, 2024, Washington had been sleeping on a pull-out couch in Apartment 47. Lewis stated that on the morning of the shooting, he saw Washington, wearing a red jacket, walking away from the Maplewood Apartments. Lewis testified that 15 minutes later, he observed Washington return to the apartment wearing the same red jacket.

{¶8} According to Lewis, when Washington returned to the apartment, Washington informed him that he had “messed up” and handed Lewis a gun. Lewis stated that he wiped off the gun to remove fingerprints and stashed the gun in a box in a closet in Apartment 47.

{¶9} Then, Lewis and Washington went to Apartment 42, where Lewis’s friend Deondra Wright (“Wright”) was staying with Brittany VanSchoyck (“VanSchoyck”). Lewis testified that while he was in Apartment 42, he received a phone call from an ex-girlfriend about a shooting incident that she heard about from listening to a police scanner. Wright testified that while Lewis took the call, she, Washington, and VanSchoyck smoked marijuana and listened to music.

{¶10} VanSchoyck testified that she was in Apartment 42—which was her apartment — on the morning of July 17, 2024 with Washington, Lewis, and Wright. VanSchoyck stated that Washington left her apartment while the others remained. A short time later, law enforcement personnel investigating the shooting came to her apartment. The officers asked VanSchoyck for permission to search the premises, which she granted. During the search, officers located a red hoodie and black shoes in a garbage can. VanSchoyck, Lewis, and Wright all testified that those apparel items did not belong to them. Officers also located a small bag of marijuana in Apartment 42, which L.H. stated was the bag that was taken from him that morning. Additionally, a black face mask, containing Lewis’s DNA, was

uncovered from Apartment 42, stashed in a couch cushion. Lewis testified that he routinely wore the face mask when out in public to avoid being identified.

{¶11} Law enforcement recovered a loaded nine-millimeter pistol from Apartment 47, in the same closet where Lewis testified that he stashed the gun he received from Washington. Four nine-millimeter casings were located at the drive-through near the location where L.H. fell. A BCI firearms analyst testified that the casings bore firing marks consistent with those left by the pistol recovered from the closet in Apartment 47. Law enforcement also testified that they were informed by BCI that DNA testing was not able to be performed on the firearm after test-firing.

{¶12} A BCI analyst testified that DNA located inside of the red hoodie found in the garbage can in Apartment 42 was consistent with Washington's DNA profile and would be expected in fewer than one in one trillion unrelated individuals.

{¶13} Law enforcement testified that surveillance video from the Maplewood Apartments depicted Lewis and Wright at the complex at the time of the shooting. According to the officer, the surveillance video also depicted Washington return to the apartment complex approximately 20 minutes after the shooting and that he was no longer wearing a red hoodie or black shoes at the time of his return.

{¶14} At the conclusion of the trial, the jury returned guilty verdicts on both counts and specifications. The court proceeded directly to sentencing and sentenced Washington to an aggregate term of 16 to 19 years in prison.

{¶15} Washington filed a timely appeal. He raises a single assignment of error for our review.

Assignment of Error

Mr. Washington’s trial counsel rendered ineffective assistance, in violation of his rights under U.S. Const., amends. VI, and XIV. (Tr. Vol. 2, 348-368; Tr. Vol. 3, 571-584.)

{¶16} In his assignment of error, Washington contends that his trial counsel rendered ineffective assistance by (1) failing to alert the jury that Quaytavius Lewis (“Lewis”) was an unindicted accomplice, and (2) meaningfully impeach Lewis on that basis. For the reasons that follow, we disagree.

{¶17} “In criminal proceedings, a defendant has the right to effective assistance of counsel under both the United States and Ohio Constitutions.” *State v. Evick*, 2020-Ohio-3072, ¶ 45 (12th Dist.). A defendant asserting a right of ineffective assistance of counsel must establish: (1) counsel’s performance was deficient or unreasonable under the circumstances; and (2) the deficient performance prejudiced the defendant. *State v. Kole*, 92 Ohio St.3d 303, 306, citing *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052 (1984). In order to show counsel’s conduct was deficient or unreasonable, the defendant must overcome the presumption that counsel provided competent representation and must show that counsel’s actions were not trial strategies prompted by reasonable professional judgment. *Strickland* at 689. Counsel is entitled to a strong presumption that all decisions fall within the wide range of reasonable professional

assistance. *State v. Sallie*, 81 Ohio St.3d 673, 675, 1998-Ohio-343 (1998). Tactical or strategic decisions, even if unsuccessful, do not generally constitute ineffective assistance of counsel. *State v. Frazier*, 61 Ohio St.3d 247, 255 (1991). Rather, the errors complained of must amount to a substantial violation of counsel's essential duties to his client. *See State v. Bradley*, 42 Ohio St.3d 136, 141-142 (1989).

{¶18} Prejudice results when ““there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different.”” *Bradley* at 142, quoting *Strickland* at 694. ““A reasonable probability is a probability sufficient to undermine confidence in the outcome.”” *Id.*, quoting *Strickland* at 694.

{¶19} Washington's argument that his trial counsel was ineffective is predicated on the assertion that Lewis was an unindicted accomplice and that his trial counsel failed to alert the jury to that fact and meaningfully impeach Lewis on that basis.

R.C. 2923.03, which governs complicity, provides that:

(A) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

- (1) Solicit or procure another to commit the offense;
- (2) Aid or abet another in committing the offense;
- (3) Conspire with another to commit the offense in violation of section 2923.01 of the Revised Code;
- (4) Cause an innocent or irresponsible person to commit the offense.

{¶20} The statute also provides that:

If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense, or an offense, the court, when it charges the jury, shall state substantially the following:

“The testimony of an accomplice does not become inadmissible because of his complicity, moral turpitude, or self-interest, but the admitted or claimed complicity of a witness may affect his credibility and make his testimony subject to grave suspicion, and require that it be weighed with great caution.

It is for you, as jurors, in the light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth.”

R.C. 2923.03(D).

{¶21} ““To require the jury instruction under R.C. 2923.03(D), an ‘accomplice’—within the meaning of the statute—““must be a person indicted for the crime of complicity.””” *State v. Sheldon*, 2019-Ohio-4123, ¶ 68 (3d Dist.), quoting *State v. Perez*, 2009-Ohio-6179, ¶ 131, quoting *State v. Wickline*, 50 Ohio St.3d 114, 118 (1990). “Indeed ‘[t]he purpose of the cautionary instruction requirement is to ensure that juries are informed that the testimony of an accomplice is inherently suspect because an accomplice is likely to have a motive to conceal the truth or otherwise falsely inculcate the defendant.’” *Id.*, quoting *State v. Sillett*, 2002-Ohio-2596, ¶ 19 (12th Dist.).

{¶22} “However, there could be a rare circumstance where an instruction is required despite the witness not being indicted for the crime of complicity.” *Id.* at ¶ 69, quoting *State v. Reed*, 2013-Ohio-3970, ¶ 67 (9th Dist.), citing *State v. Smith*, 2012-Ohio-794, ¶ 22 (9th Dist.), citing *State v. Sillett*, 2002-Ohio-2596, ¶ 19 (12th Dist.). “For example, an accomplice may be offered immunity in exchange for testimony and never indicted for the crime. In such cases, there is reason for the witness’[s] testimony to be viewed with the same suspicion as that of an indicted accomplice.” *Sillett* at ¶ 16.

{¶23} Washington alleges that his trial counsel rendered deficient performance by failing to alert the jury to the fact that Lewis was an unindicted accomplice and by failing to meaningfully impeach Lewis on that basis. Washington appears to argue that Lewis’s trial testimony established he aided and abetted Washington by committing the offense of tampering with evidence, a third-degree felony, when he intentionally wiped fingerprints off the gun prior to placing it in the closet, yet was never prosecuted for that offense.

{¶24} The State responds that Lewis was not an accomplice to the aggravated robbery and felonious assault charges which Lewis was indicted because those were complete before Lewis received the gun. The State argues that even if Lewis committed tampering with evidence, he would be the primary offender of his own crime, rather than an accomplice to Washington’s crimes. The State further argues

that defense counsel did implicate Lewis during closing argument by highlighting that Lewis admitting to taking the gun and wiping off fingerprints.

{¶25} First, Washington was charged with aggravated robbery in violation of R.C. 2911.01(A)(1). That statute provides that: “No person, in attempting or committing a theft offense, as defined in [R.C. 2913.01], or in fleeing immediately after the attempt or offense, shall . . . [h]ave a deadly weapon on or about the offender’s person or under the offender’s control and either display the weapon, brandish it, indicate that the offender possesses it, or use it[.]” R.C. 2911.01(A)(1). Washington was also charged with felonious assault in violation of R.C. 2903.11(A)(1), which provides that “No person shall knowingly . . . [c]ause serious physical harm to another[.]”

{¶26} “[T]he Supreme Court of Ohio noted ‘accomplice’ commonly means one ‘who is *guilty* of complicity in crime charged.’” (Emphasis sic.) *State v. Jennings*, 2009-Ohio-6840, ¶ 62 (10th Dist.), quoting *State v. Wickline*, 50 Ohio St.3d 114, 117 (1990). “To bring someone within the meaning of accomplice, the Supreme Court reasoned, the state must first indict the alleged accomplice because ‘a person who is *guilty* of complicity must first be *found* guilty of complicity by either a judge or a jury.’” (Emphasis sic.) *Id.*, quoting *Wickline* at 118. “At the very least, therefore, ‘an “accomplice” must be indicted for the crime of complicity.’” *Id.*, quoting *Wickline* at 118. Here, the record does not indicate that Lewis was indicted for complicity to aggravated robbery or felonious assault.

{¶27} Second, while Lewis’s testimony regarding his actions with the firearm suggest that he may have committed tampering with evidence pursuant to R.C. 2921.12(A)(1), the record does not indicate that Lewis was ever charged with that offense. Thus, the absence of an indictment or formal cooperation agreement limited the scope of impeachment available to Washington’s trial counsel. Although Washington’s counsel could have asked Lewis whether he had an agreement with the State or whether he was charged with tampering with evidence, the answer to those questions could have been “no.” Thus, counsel could have determined that engaging in such a line of questioning would not have been beneficial to Washington and, worse, may have risked allowing Lewis to explain his conduct in a sympathetic light.

{¶28} Third, counsel’s chosen strategy of suggesting that Lewis was the guilty party and highlighting the State’s failure to take steps that may have discovered evidence implicating Lewis was a reasonable tactical decision. In his closing statement, Washington’s counsel emphasized evidence which it suggested implicated Lewis as the perpetrator. Washington’s counsel underscored that Lewis admitted to wiping down the firearm, that the firearm was found in Lewis’s apartment, that Lewis routinely wore a face mask, and that a mask matching Lewis’s DNA was found in Apartment 42. For instance, during closing arguments, Washington’s trial counsel made comments such as:

I think the most important thing is the gun. We know from the firearms expert at B.C.I. that the shell casings collected came from that nine millimeter gun that was found in apartment 47 inside that box. Who lives in apartment 47? He's not on the lease, but who lives there? [Lewis] does. [Lewis] said, "I hid the gun. I put the gun in the box." Oh, he tells you, "I got the gun from [Washington] and I put it in there." "Why? Why did you do that?" "Well, because I'm a family man and I'm going to put guns in boxes because I'm a family man. I don't have guns around." Well, don't take the gun. Don't take the gun if that's what you're worried about. But he did.

...

Why are you wiping down a gun that you don't have anything to do with? . . . If you didn't have anything to do with it, well, why did you take the gun from him and then wipe it down? Well, because his DNA was probably going to be on that gun. Was it just from that touching? No.

(June 3-5, 2025 Tr. at 579-580).

{¶29} Washington's counsel's decision not to pursue more aggressive impeachment regarding Lewis's involvement and liability is the type of debatable trial strategy that does not constitute deficient performance pursuant to *Strickland*. "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. Davis*, 2017-Ohio-2916, ¶ 35 (3d Dist.), quoting *State v. Conley*, 2015-Ohio-2553, ¶ 56. "A reviewing court may not second-guess decisions of counsel which can be considered matters of trial strategy." *Id.*, quoting *Conley* at ¶ 56, citing *State v. Smith*, 17 Ohio St.3d 98 (1985). Thus, we find that Washington has not established that his counsel's representation fell below an objective standard of reasonable representation.

{¶30} Accordingly, Washington's assignment of error is overruled.

Conclusion

{¶31} Having found no error prejudicial to the appellant herein in the particulars assigned and argued, we affirm the judgment of the Allen County Court of Common Pleas.

Judgment Affirmed

ZIMMERMAN, P.J. and WALDICK, J., concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this Court, the assignment of error is overruled and it is the judgment and order of this Court that the judgment of the trial court is affirmed with costs assessed to Appellant for which judgment is hereby rendered. The cause is hereby remanded to the trial court for execution of the judgment for costs.

It is further ordered that the Clerk of this Court certify a copy of this Court's judgment entry and opinion to the trial court as the mandate prescribed by App.R. 27; and serve a copy of this Court's judgment entry and opinion on each party to the proceedings and note the date of service in the docket. See App.R. 30.

Mark C. Miller, Judge

William R. Zimmerman, Judge

Juergen A. Waldick, Judge

DATED:
/jlm