

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
SCIOTO COUNTY

STATE OF OHIO,	:	
	:	Case No. 25CA4122
Plaintiff-Appellee,	:	
	:	
v.	:	
	:	<u>DECISION AND JUDGMENT</u>
JACQUAVIUS WILLIAMS,	:	<u>ENTRY</u>
	:	
Defendant-Appellant.	:	
	:	RELEASED: 09/23/2026

APPEARANCES:

Karyn Justice, Portsmouth, Ohio, for appellant.

Shane A. Tieman, Scioto County Prosecuting Attorney and Jay Willis, Scioto County Assistant Prosecuting Attorney, Portsmouth, Ohio, for appellee.

Wilkin, J.

{¶1} This is an appeal of a Scioto County Court of Common Pleas judgment entry of conviction in which Jacquavius Williams (“Williams”) was convicted after a jury trial of illegal conveyance of drugs of abuse. On appeal, Williams contends: 1) that the conviction is not supported by sufficient evidence and is against the manifest weight of the evidence; 2) the trial court erred when it denied his motion in limine; and 3) the trial court erred when it denied his motion for mistrial. After reviewing the parties’ arguments, the record, and the applicable law, we find no merit to the assignments of error and affirm the judgment of the trial court.

BACKGROUND

{¶2} On October 30, 2023, Williams was an inmate in the custody of the Ohio Department of Rehabilitation and Correction, where he was serving a sentence for

aggravated robbery and felonious assault, as well as a sentence for attempted illegal conveyance onto the grounds of a detention facility. He had been in prison since 2011. On October 30, Williams was transferred with his property from the Ohio State Penitentiary to Southern Ohio Correctional Facility ("SOCF").

{¶3} During a routine search of Williams' personal belongings, a corrections officer found a bottle of lotion concealing a package containing nine Suboxone (buprenorphine) strips, a Schedule III controlled substance; 13 pieces of paper that later tested positive for Schedule I controlled substances (ADB-Butinaca and ADB-4en-Pinaca); and xylazine, a Schedule III substance. In the course of the investigation, Ohio State Highway Patrol ("OSHP") Investigator Wells spoke with Williams at SOCF regarding the incident. Williams indicated he did not want to give an official statement, but spontaneously uttered incriminating remarks concerning the contraband.

{¶4} On June 13, 2024 a Scioto County grand jury returned an indictment charging Williams with four counts of illegal conveyance of drugs of abuse onto grounds of a specified government facility (Counts 1-4), in violation of R.C. 2921.36(A)(2) and (G)(2), third-degree felonies; two counts of aggravated trafficking in drugs (Counts 5-6), in violation of R.C. 2925.03(A)(2) and (C)(1)(c), third-degree felonies; trafficking in drugs (Counts 7-8), in violation of R.C. 2925.03(A)(2) and (C)(2)(c), fourth-degree felonies; two counts of aggravated possession of drugs (Counts 9-10), in violation of R.C. 2925.11(A) and (C)(1)(b), third-degree felonies; and two counts of possession of drugs (Counts 11-12), in violation of R.C. 2925.11(A) and (C)(2)(b), fourth-degree felonies.

{¶5} The case proceeded to jury trial. At the conclusion of the State's case, the defense made a Crim.R. 29 motion for acquittal, and the State agreed it had not shown

the presence of the bulk amount for Buprenorphine and therefore requested a jury instruction as to a lesser-included offense for Counts 8 and 12. The trial court denied the motion for acquittal and instructed the jury regarding a lesser-included offense concerning the Buprenorphine counts. The jury found Williams guilty of three counts of illegal conveyance of drugs (Counts 1-3), two counts of aggravated possession of drugs (Counts 9-10); and one count of possession of drugs (Count 11). The jury found Williams not guilty of the remaining counts.

{¶6} The trial court proceeded to sentencing and found that Counts 1, 2, and 3 merged for sentencing purposes. The State elected to proceed with sentencing on Count 1. The trial court also found that Counts 9, 10, and 11 merged for sentencing purposes. The State elected to proceed with sentencing on Count 10. The trial court then found that Counts 1 and 10 merged, and the State elected to sentence on Count 1. Thus, Williams was convicted of one count of illegal conveyance that involved ADB-Butinaca, a Schedule I controlled substance.

{¶7} The trial court sentenced Williams to 36 months in prison, including an optional term of up to 2 years of post-release control. The trial court further ordered Williams to serve the 36-month term consecutively to the sentence Williams was already serving at the time of the offense. Williams subsequently submitted this appeal, assigning three errors for our review.

ASSIGNMENTS OF ERROR

I. APPELLANT'S CONVICTIONS ARE NOT SUPPORTED BY THE MANIFEST WEIGHT OF SUFFICIENT EVIDENCE.

II. THE COURT ERRED WHEN IT DENIED APPELLANT'S MOTION IN LIMINE.

III. THE COURT ERRED WHEN IT DENIED APPELLANT'S MOTION FOR MISTRIAL.

FIRST ASSIGNMENT OF ERROR

{¶8} In his first assignment of error, Williams appears to challenge both the sufficiency and weight of the evidence. Williams asserts that the State failed to meet its burden to prove every essential element of the case against him, but in particular, the element that he knew there were controlled substances in his property when he arrived at SOCF. He argues the State relied primarily on the testimony of corrections and law enforcement personnel who testified about the chain of custody of his property. As it relates to whether he had knowledge of the substance, he argues the only evidence the State presented about knowledge was through the testimony of the OSHP investigator, Trooper Wells. He acknowledges that Trooper Wells testified that Williams volunteered a statement that he committed the crimes. Williams states, however, he denied volunteering that statement, believing instead that he was answering a hypothetical question. Williams further alleges that even though the State showed the contraband was found in his property, the State did not prove that Williams knew it was in his property.

{¶9} The State submits that it presented sufficient competent, credible evidence, most of which was uncontroverted, to prove beyond a reasonable doubt that Williams was guilty consistent with the jury's verdict.

A. Law.

{¶10} “ ‘ Challenges to the sufficiency of the evidence and the weight of the evidence involve distinct legal concepts and different standards of review.... While both challenge the strength of the evidence, “[a] challenge to the sufficiency of the evidence

attacks its adequacy ... while a challenge to the weight of the evidence attacks its persuasiveness.” ’ ’ (Bracketed text and second ellipsis in original.). *State v. Reillo*, 2026-Ohio-2701, ¶ 24, quoting *State v. Jordan*, 2023-Ohio-3800, ¶ 15, quoting *Disciplinary Counsel v. Smith*, 2017-Ohio-9087, ¶ 23. “Put differently, while a review of the sufficiency of the evidence asks whether the State met its burden of production, a manifest-weight-of-the-evidence challenge looks to whether the State met its burden of persuasion.” *Id.*, citing *State v. Messenger*, 2022-Ohio-4562, ¶ 26.

{¶11} “In general, a claim of insufficient evidence invokes a due process concern and raises the question of whether the evidence is legally sufficient to support the verdict as a matter of law.” *State v. King*, 2022-Ohio-4616, ¶ 22 (4th Dist.), citing *State v. Schroeder*, 2019-Ohio-4136, ¶ 59 (4th Dist.); *State v. Thompkins*, 78 Ohio St.3d 380, 386 (1997). Thus, “[w]hether the evidence is legally sufficient to sustain a conviction is a question of law that this court reviews de novo.” *State v. Brown*, 2025-Ohio-2804, ¶ 16, citing *State v. Groce*, 2020-Ohio-6671, ¶ 7. Viewing the evidence in the light most favorable to the prosecution the court asks whether “ ‘ “any rational trier of fact could have found the essential elements of the crime proved beyond a reasonable doubt.” ’ ’ ” *Id.*, quoting *State v. Dean*, 2015-Ohio-4347, ¶ 150, quoting *State v. Jenks*, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus. Accordingly, “[t]he appropriate standard of review for a sufficiency-of-the-evidence challenge is ‘whether, if believed, the evidence can sustain the verdict as a matter of law.’ ” *Id.* at ¶ 17, quoting *State v. Richardson*, 2016-Ohio-8448, ¶ 13.

{¶12} However, in a manifest-weight-of-the-evidence challenge, “a court “ ‘weighs the evidence and all reasonable inferences, considers the credibility of

witnesses and determines whether in resolving conflicts in the evidence, the jury clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered.’ ” ” *Reillo*, 2026-Ohio-2701 at ¶ 26, quoting *Brown*, 2025-Ohio-2804, at ¶ 30, *Thompkins*, 78 Ohio St.3d at 387,, quoting *State v. Martin*, 20 Ohio App.3d 172 (1st Dist. 1983), paragraph three of the syllabus.

Therefore, an appellate court will vacate a jury's verdict and order a new trial “ ‘only in the exceptional case in which the evidence weighs heavily against the conviction,’ ” *Id.* at ¶ 27, quoting *Brown* at ¶ 31, quoting *Thompkins*, 78 Ohio St.3d at 387. Courts, therefore, “review the record to determine whether the ‘jury clearly lost its way.’ ” *Id.* at ¶ 26, quoting *Thompkins*, 78 Ohio St.3d at 387.

{¶13} Even so, we observe it is the role of the jury to determine the weight and credibility of evidence. *State v. Schluep*, 2025-Ohio-5866, ¶ 22 (4th Dist.) “ ‘ “A jury, sitting as the trier of fact, is free to believe all, part or none of the testimony of any witness who appears before it.” ’ ” *Id.*, quoting *State v. Reyes-Rosales*, 2016-Ohio-3338, ¶ 17 (4th Dist.), quoting *State v. West*, 2014-Ohio-1941, ¶ 23 (4th Dist.). The trier of fact should be accorded deference in evidentiary weight and credibility issues because it is in the best position to gauge the witnesses’ demeanor, gestures, and voice inflections, and to use these observations to weigh their credibility. *Schluep* at ¶ 22.

{¶14} We further observe that “ ‘[a]lthough sufficiency and manifest weight are different legal concepts, manifest weight may subsume sufficiency in conducting the analysis; that is, a finding that a conviction is supported by the manifest weight of the evidence necessarily includes a finding of sufficiency.’ ” *State v. Neff*, 2025-Ohio-1171, ¶ 46 (4th Dist.), quoting *State v. Gravely*, 2010-Ohio-3379, ¶ 46 (10th Dist.), citing *State*

v. Braxton, 2005-Ohio-2198, ¶ 15 (10th Dist.), citing *State v. Roberts*, 1997 WL 600669 (9th Dist. Sept. 17, 1997). Hence, “ ‘a determination that a conviction is supported by the weight of the evidence will also be dispositive of the issue of sufficiency.’ ” *Id.*, quoting *Gravelly* at ¶ 46; *State v. Wickersham*, 2015-Ohio-2756, ¶ 27, (4th Dist.); *State v. Pollitt*, 2010-Ohio-2556, ¶ 15 (4th Dist.). We, therefore, “ ‘first examine whether appellant’s convictions are supported by the manifest weight of the evidence.’ ” *Id.* quoting *Gravelly* at ¶ 46, citing *State v. Sowell*, 2008-Ohio-3285, ¶ 89 (10th Dist.).

B. Analysis

{¶15} At the outset, we note that Williams states his *convictions* are not supported by the manifest weight or sufficient evidence. We observe that although the trial court found Williams guilty of three counts of illegal conveyance of drugs (Counts 1-3), two counts of aggravated possession of drugs (Counts 9-10), and one count of possession of drugs (Count 11), the trial court merged several offenses such that the illegal conveyance of drugs was the only remaining offense. Thus, if sufficient evidence supports Williams’s illegal conveyance conviction, an erroneous verdict on the merged count would be harmless. See *State v. Foster*, 2023-Ohio-746, ¶ 22 (4th Dist.); *State v. Whitehead*, 2022-Ohio-479, ¶ 78 (4th Dist.); *State v. Worley*, 2021-Ohio-2207, ¶ 73; *State v. Campbell*, 2021-Ohio-2482, ¶ 46 (4th Dist.); see also *State v. Williams*, 2012-Ohio-4693, ¶ 54 (4th Dist.)(because a court does not impose a sentence for merged offenses, the defendant is not “convicted” of those merged offenses, and there is therefore no “conviction” for appellate court to vacate). Consequently, if we determine that the manifest weight of the evidence supports Williams’s illegal conveyance

conviction, we need not address the other offenses. Further, Williams's argument does primarily address the illegal conveyance count.

{¶16} Williams was convicted of a sole count of illegal conveyance of drugs of abuse onto the grounds of a specified governmental facility, in violation of R.C. 2921.36(A)(2) and (G)(2), a third-degree felony. R.C. 2921.36 provides, in pertinent part:

(A) No person shall knowingly convey, or attempt to convey, onto the grounds of a detention facility or of an institution, office building, or other place that is under the control of the department of mental health and addiction services, the department of developmental disabilities, the department of youth services, or the department of rehabilitation and correction any of the following items:

(2) Any drug of abuse, as defined in section 3719.011 of the Revised Code[.]

(G)(2) Whoever violates division (A)(2) of this section or commits a violation of division (C) of this section involving any drug of abuse is guilty of illegal conveyance of drugs of abuse onto the grounds of a specified governmental facility, a felony of the third degree.

Count 1 involved ADB-Butinaca, a Schedule I controlled substance, though Williams does not specifically challenge the identity or amount of drugs involved here.

{¶17} In the case sub judice, Williams argues the State failed to prove that he “knew there were controlled substances in his property when he arrived at SOCF.” R.C. 2901.22(B) provides:

(B) 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 the fact.

{¶18} At trial, the evidence showed that when officers transport inmates from prison to prison (including SOCF), the officers stow the inmates' belongings in a compartment beneath the transport vehicle. Upon arrival at SOCF, each inmate's box is placed in the receiving property cage, which is secured with a padlock and kept in the property room behind a locked door. The transfer inmate's belongings arrive in a taped, sealed box labeled with the inmate's name and tag showing the inmate's picture and number. Even if multiple inmates arrive at SOCF at the same time, a corrections officer searches each box individually, one at a time. When contraband is discovered, it is secured in a vault for review by criminal investigators.

{¶19} The State presented testimony from a corrections officer assigned to the security threat group (STG), who had specialized training in identifying drugs that may be conveyed into the facility. On October 30, 2023, during a routine search of transfer inmate Williams' property, this corrections officer found a lotion bottle that had a package inside of it. The lotion bottle attracted the corrections officer's attention because it was wrapped in plastic. Inside were 9 Suboxone strips and 13 pieces of paper soaked in what appeared to be controlled substances approximately the size of an inmate ID. The State also presented testimony describing how inmates use the drugs in question and the monetary value of the drugs, as well as drug identification testimony from an expert witness/drug analyst.

{¶20} In addition to this testimony, OSHP Trooper Wells detailed the extent of her investigation. She testified that, several months after a corrections officer discovered contraband in Williams's property, Williams was brought to an interview room to discuss the incident. Trooper Wells stated that she asked Williams to sit in a chair in the middle

of the room, across from her, and then introduced herself, explaining that her role was to advise him of his rights and obtain his side of the story. She told Williams he had been brought in because drugs were found in his property and that she understood he had likely already appeared before the rules infraction board. Trooper Wells testified that, after she finished this introduction, Williams stated: “I don’t want to give you an official statement. It’s obviously [sic] that I brought it to use some and sell some.” At that point, Williams said that he wasn’t going to tell Trooper Wells how he got it there or anything beyond that.

{¶21} Then Trooper Wells said, “I need to read you your rights and let you – record what you’re saying.” Williams then said, “That’s not necessary to read my rights. I am not going to give you an official statement.” According to Trooper Wells, Williams immediately spoke out and made this statement after she had introduced herself to him and then told him the reason she was there. Trooper Wells explained that she had not asked him one single question when Williams made this statement. In fact, according to Trooper Wells, Williams had made the statement before she had had a chance to ask him a question or read him his rights.

{¶22} During the defense’s case, Williams testified on his own behalf. He acknowledged he had been incarcerated and transferred from the Ohio State Penitentiary to SOCF in October 2023. Williams stated that his property was searched before he was transferred from one facility to another.

{¶23} According to Williams, he was asleep around midnight on October 31 when the SOCF staff came to his cell and told him to “cuff up,” he was being taken to a

segregation cell, and the staff did not tell him why. Williams claimed that it wasn't until a few days later, or the following week that someone talked to him about the incident.

{¶24} Williams further testified that about five months later, SOCF staff told him he had a visitor. Williams assumed one of his family members came to see him, but instead of being taken to the visitation room, he was escorted to a different room. Williams stated that he saw a couple of men exit the room before he was brought inside, where a chair was positioned in the middle. After he sat down, Trooper Wells began questioning him.

{¶25} According to Williams, when Trooper Wells began questioning him, he immediately said he didn't want to talk. Williams claimed Trooper Wells asked him four or five times if he wanted to "give information." Williams further testified that Trooper Wells specifically asked him "what would one do with drugs like that," and that he specifically responded, "take care of their family, sell them[,] or do them."

{¶26} According to Williams, Trooper Wells "twisted" his whole statement--he never said "my possession," and he never said "my drugs." He never said, "this [is] what I would do." He claims that Trooper Wells asked him "what would one do with those type of drugs?" Thus, Williams took Trooper Wells's question as a "hypothetical question." Williams testified that, if he had admitted the drugs were his, he would have done so either at the rules infraction board or when another investigator questioned him. He further testified that he didn't "remember any rights being read." At trial, Williams also testified that he has a "lot of property," and disputed that it was even "his stuff," and further, that he didn't put anything into this bottle the State is talking about.

{¶27} On appeal, Williams claims that “the only evidence presented by the State that Mr. Williams had knowledge of this incident was the testimony of the OSHP investigator. She testified Mr. Williams voluntarily admitted to her that he committed these crimes.” Williams points out that at trial he denied volunteering the statement, and that any remarks he made to Trooper Wells were based on a hypothetical. In so doing, on appeal, he concedes that the evidence shows the contraband was found in his property, but asserts that there is no evidence that he knew it was there.

{¶28} The State responds that the jury was free to believe all of the evidence for themselves. We agree with the State. We acknowledge that “[o]ne witness, if believed, may provide the trier of fact with competent, credible evidence to support its determination.” *State v. Lewis*, 2018-Ohio-3784, ¶ 38 (4th Dist.).

{¶29} Further, even if the only evidence of Williams’s knowledge of the substance was Trooper Well’s testimony regarding his statement, it is the jury’s purvey to assess credibility. The Supreme Court of Ohio recently addressed the issue of manifest weight. The Court observed, when discussing manifest weight, that an appellate court sits as a “thirteenth juror,” and may disagree with “the fact-finder’s resolution of the conflicting evidence.” *State v. Reillo*, 2026-Ohio-2701, ¶ 27, quoting *State v. Martin*, 2022-Ohio-4175, ¶ 26. However, “ ‘[i]n weighing the evidence, the court of appeals must always be mindful of the presumption in favor of the finder of fact.’ ” *Id.* at ¶ 28, quoting *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 21. Thus, “ ‘[i]f the evidence is susceptible of more than one construction, the reviewing court is bound to give it that interpretation which is consistent with the verdict and judgment, most favorable to sustaining the verdict and

judgment.” ’ ’ ” *Id.*, quoting *In re Z.C.*, 2023-Ohio-4703, ¶ 14, quoting *Seasons Coal Co.*, 10 Ohio St.3d 77, 80, fn. 3.

{¶30} We are further mindful that in the instant case, the jury acquitted Williams on some of the indicted counts. Those acquittals indicate the jury carefully weighed the evidence and did not clearly lose its way in finding him guilty on the remaining counts. See *State v. Steele*, 2025-Ohio-5730, ¶ 37 (4th Dist.) (The fact that the jury acquitted the defendant of one count shows it carefully reviewed the evidence before it); *State v. Brown*, 2007-Ohio-287, ¶ 37 (8th Dist.) (Even when there were discrepancies between the victim’s account and the defendant’s account of what transpired, this was a matter of credibility and the fact-finder did not clearly lose its way when it convicted defendant on some counts, but acquitted him on others).

{¶31} Therefore, we overrule Williams’s first assignment of error as it has no merit.

SECOND ASSIGNMENT OF ERROR

{¶32} In his second assignment of error, Williams avers that the trial court erred in denying his motion in limine to exclude the testimony of Trooper Wells regarding his statement that he had brought the controlled substances with him to use and sell within the prison. The State responds that the trial court properly denied Williams’s motion in limine because *Miranda* was not implicated when Williams made the statement. The State contends that Williams “volunteered” the statement at a time when he was not “in custody,” such that the statement was not a custodial interrogation requiring *Miranda*.

A. Law.

{¶33} Crim.R. 12(C), “pretrial motions,” provides that “[p]rior to trial, any party may raise by motion any defense, objection, evidentiary issue, or request that is capable of determination without the trial of the general issue. The following must be raised before trial: * * * (3) [m]otions to suppress evidence, including but not limited to statements and identification testimony, on the ground that it was illegally obtained. Such motions shall be filed in the trial court only.” Crim.R. 12(D) further provides that such pretrial motions “shall be made within thirty-five days after arraignment or seven days before trial, whichever is earlier. The court in the interest of justice may extend the time for making pretrial motions.”

{¶34} “ ‘A “motion to suppress” is defined as a “[d]evice used to eliminate from the trial of a criminal case evidence which has been secured illegally, generally in violation of the Fourth Amendment (search and seizure), the Fifth Amendment (privilege against self-incrimination), or the Sixth Amendment (right to assistance of counsel, right of confrontation etc.), of U.S. Constitution.” ’ ” *State v. Woltz*, 2017-Ohio-9042, ¶ 10 (4th Dist.) quoting *State v. French*, 72 Ohio St.3d 446, 449, (1995). “ ‘[A] motion to suppress is the proper vehicle for raising constitutional challenges based on the exclusionary rule[.]’ ” *State v. Robinson*, 2025-Ohio-1539, ¶ 15 (4th Dist.), quoting *State v. French*, 72 Ohio St.3d at 449.

{¶35} In contrast, a motion in limine “is a pretrial request asking the court to prohibit opposing counsel from referring to or offering evidence on matters so highly prejudicial to the moving party that curative instructions would be ineffective in preventing a predispositional effect on the jury.” *State v. Foster*, 2025-Ohio-2942, ¶ 41

(3d Dist.); *State v. Wild*, 2010-Ohio-4751, ¶ 27 (2d Dist.); *French*, 72 Ohio St.3d at 449, citing *Black's Law Dictionary* (6th Ed.1990). Thus, “[a] motion in limine is directed to the trial court's discretion on an evidentiary issue that might arise at trial but that has not yet been presented in full context.” *State v. Vulgamore*, 2021-Ohio-3147, ¶ 38 (4th Dist.), citing *State v. Shalash*, 2015-Ohio-3836, ¶ 30 (12th Dist.).

{¶36} However, “[a] motion in limine can serve as the functional equivalent of a motion to suppress, which determines the admissibility of evidence with finality.” *State v. Jones*, 2021-Ohio-3050, ¶ 61 (2d Dist.), citing *State v. Johnston*, 2015-Ohio-450, ¶ 16 (2d Dist.). “A motion in limine is treated like a suppression motion when an evidentiary hearing is held at which testimony regarding the topic of the motion is fully presented with cross-examination.” *Id.*, citing *Johnston* at ¶ 22.

{¶37} “Appellate review of a ruling on a motion to suppress presents a mixed question of law and fact.” *State v. Farrow*, 2023-Ohio-682, ¶ 12 (4th Dist.), quoting *State v. Turner*, 2020-Ohio-6773, ¶ 14. “An appellate court must accept the trial court's findings of fact if they are supported by competent, credible evidence. But the appellate court must decide the legal questions de novo.” *Id.* quoting *Turner* at ¶ 14.

B. Analysis

{¶38} In the instant case, Williams filed a “motion in limine” on February 14, 2025, prior to trial but more than 35 days after arraignment, which took place August 7, 2024. The motion requested that the statements Williams made to Trooper Wells be excluded from evidence because “[d]efendant was not mirandized prior to making any statements,” therefore, “[t]he statements were taken in violation of defendant's rights

guaranteed by the Fifth, Sixth[,] and Fourteenth Amendments to the United States Constitution and Article I, Section 10 of the Ohio Constitution.”

{¶39} On the morning of the jury trial held February 18, 2025, the trial court addressed the issue with counsel. The trial court generally inquired about the factual circumstances of the motion, and counsel for the State and defense recited the circumstances surrounding Williams’s statement to Trooper Wells. However, the trial court did not hear sworn testimony. The trial court noted that the pleading was styled as a “motion in limine.” However, the trial court found that the motion was actually a constitutional challenge as to why the statements should not be admitted, and as such, the trial court found the motion was untimely.

{¶40} Even though the trial court found the motion to be untimely, the trial court accepted the proffered facts by the State and defense, and found that legally, the statement did not involve a custodial interrogation because (1) Williams was not “in custody” for the purposes of *Miranda* and (2) that it appeared the statement was not elicited by questioning, even though it was probably the trooper’s intent to interview Williams at the time. The trial court indicated that it sounded from the proffer like Trooper Wells never had the chance to mirandize Williams. The trial court acknowledged it had not “heard the statement” at that point in time.

{¶41} Based on the record, we find no error. Initially, we would turn to Crim.R. 12(C) and (D) and determine that the trial court properly held the motion in limine, which was actually a motion to suppress, to be untimely.

{¶42} We also find no error on the part of the trial court in denying the motion in limine/suppress on the merits. When the issue was addressed by the trial court, the parties offered the following facts:

1. Williams was in an inmate at SOCF and was restrained at the time he made the statement;
2. In an interview room at the prison, Trooper Wells advised Williams that drugs had been found in his property, and that she observed that he probably already had a rules infraction hearing on the issue.
3. At that point, Williams said he didn't want to give an official statement, and then Williams went on to say, he obviously "brought it to use and sell some," and further, that he didn't want to say anything else.
4. Trooper Wells advised him at that point she would need to advise him of his rights and that the statement would be recorded, and Williams then stated that there was no need because he was not going to give a statement.
5. Williams terminated the interview before it began in that Trooper Wells did not have time to ask a single question of Williams; Williams offered this statement before Trooper Wells could begin asking questions.
6. The exchange occurred in an interview room at the prison and Williams's exchange with Trooper Wells lasted "less than two minutes," [p]robably less than one minute."
7. When Williams terminated the attempted interview, he was immediately taken back to his cell.

Trooper Wells's and Williams's testimony given during the trial regarding the circumstances surrounding the statement are essentially consistent with the proffer of evidence the attorneys submitted to the trial court. The primary differences were that, at trial, Williams testified that different words were spoken. Further, Williams claimed the exchange lasted longer than the State represented, and described Trooper Wells as "questioning" him.

{¶43} “If a suspect provides responses while in custody without having first been informed of his or her *Miranda* rights, the responses may not be admitted at trial as evidence of guilt.” *Cleveland v. Oles*, 2017-Ohio-5834, ¶ 9, citing *Miranda v. Arizona*, 384 U.S. 436, 479 (1966). “Imprisonment alone is not enough to create a custodial situation within the meaning of *Miranda*.” *State v. Barker*, 2017-Ohio-596, ¶ 11 (5th Dist.), citing *Howes v. Fields*, 565 U.S. 499, 510-511 (2012); *State v. Jewell*, 2025-Ohio-2496, ¶ 56 (1st Dist.). “Rather, the inquiry into whether an incarcerated person is subject to a custodial interrogation focuses on all the features of the interview, not merely the fact that the interviewee is in prison.” *Jewell* at ¶ 56, citing *Howes v. Fields*, 565 U.S. 499, 514 (2012). These include “(1) the location of the questioning, (2) its duration, (3) statements made during the interview, (4) the presence or absence of physical restraints during the questioning, and (5) the release of the interviewee at the end of the questioning.” *Jewell* at ¶ 56, quoting *State v. Nelson*, 2016-Ohio-7115, ¶ 24 (6th Dist.). “ ‘In determining whether a person is in custody in this sense, the initial step is to ascertain whether, in light of the objective circumstances of the interrogation, a reasonable person [would] have felt he or she was not at liberty to terminate the interrogation and leave.’ ” *Nelson* at ¶ 22, quoting *Howes*, 565 U.S. at 509.

{¶44} The record reflects that, although Williams made the statements in a prison interview room while restrained, the encounter was brief. Trooper Wells’s remarks were introductory, and the circumstances surrounding Williams’s statement were not coercive. After Williams stated that he did not want to give a statement, he was immediately returned to his cell.

{¶45} In addition, there is no indication from the facts proffered at the time the trial court considered the motion that Williams's statements were made in response to an interrogation. "[T]he requirement that police officers administer *Miranda* warnings applies only when a suspect is subjected to *both* custody *and* interrogation." (Emphasis added.). *State v. Neyland*, 2014-Ohio-1914, ¶ 119, citing *Miranda*, 384 U.S. at 444. An unsolicited and spontaneous statement that does not result as product of interrogation also does not implicate *Miranda*. See *Neyland* at ¶ 119, citing *Rhode Island v. Innis*, 446 U.S. 291, 300 (1980) and *State v. Dunn*, 2012-Ohio-1008, ¶ 24. The parties' proffer at the time the trial court considered the motion supports the conclusion that Williams's statement was not made in response to questioning, but was instead a spontaneous remark made after Trooper Wells explained the purpose of the interview.

{¶46} We conclude that the trial court did not err in finding the motion in limine, which was actually a motion to suppress, was untimely. Further, the trial court did not err in admitting Williams's statements. Thus, we overrule the second assignment of error.

THIRD ASSIGNMENT OF ERROR

A. Law.

{¶47} In his third assignment of error, Williams asserts that the trial court abused its discretion in denying his motion for mistrial. Williams objected and then asked for a mistrial when the corrections officer testified, after being asked if he could "recognize [Williams] on sight," that "[w]e had to look him up last week for having drugs." Williams argues on appeal that the testimony is not admissible to show that the defendant has a disposition or propensity toward the commission of a crime, pursuant to Evid.R. 404(B).

He acknowledges that a trial court sustaining an objection and giving a curative instruction has been held to be enough to “cure the taint” from an improper statement. However, he asserts that the “inflammatory nature” of the error was prejudicial because the jury had already heard the statement and it implied that Williams persisted in unindicted criminal acts.

{¶48} The State responds that the statement was offered to identify Williams and not offered to prove character or that Williams acted in conformity therewith. In addition, the State asserts that the jury is presumed to have followed a curative instruction.

A. Law.

{¶49} “ ‘A trial court must declare a mistrial only “when the ends of justice so require and a fair trial is no longer possible.” ’ ” *State v. Holsinger*, 2022-Ohio-4092, ¶ 14 (4th Dist.), quoting *State v. Adams*, 2015-Ohio-3954, ¶ 198, quoting *State v. Garner*, 74 Ohio St.3d 49, 59 (1995). “ ‘A mistrial should not be ordered in a cause simply because some error has intervened. The error must prejudicially affect the merits of the case and the substantial rights of one or both of the parties.’ ” *State v. Thacker*, 2020-Ohio-4620, ¶ 48 (4th Dist.), quoting *Tingue v. State*, 90 Ohio St. 368 (1914), paragraph three of the syllabus.

{¶50} “ ‘An appellate court reviews an order denying a motion for a mistrial for abuse of discretion.’ ” *Holsinger* at ¶ 14, citing *Adams* at ¶ 198. “An abuse of discretion is ‘an unreasonable, arbitrary, or unconscionable use of discretion, or ... a view or action that no conscientious judge could honestly have taken.’ ” *State v. Wagner*, 2026-Ohio-2488, ¶ 16, quoting *State v. Brady*, 2008-Ohio-4493, ¶ 23. “A trial court's decision is

unreasonable if there is no sound reasoning process that would support it.” *Id.* citing *Scioto Land Co., LLC v. Knauff*, 2023-Ohio-4821, ¶ 50 (4th Dist.).

{¶51} “When the defendant seeks a mistrial based on impermissible testimony about other acts, the trial court does not abuse its discretion by denying the motion if the references were brief and isolated, the remarks were followed by a curative instruction, and the likelihood of prejudice is low.” *State v. Haskins*, 2024-Ohio-5908, ¶ 32 (8th Dist.), citing *State v. Friess*, 2023-Ohio-3409, ¶ 116 (6th Dist.) citing *State v. Durst*, 2020-Ohio-607, ¶ 47 (6th Dist.), citing *State v. Trimble*, 2009-Ohio-2961, ¶ 174-175, and *State v. Garner*, 74 Ohio St.3d 49, 59, (1995).

B. Analysis.

{¶52} At trial the State asked a corrections officer witness whether he had seen Williams before. The State asked the following questions:

State: As he – you – you had never seen this man before?

Corrections officer: I’ve seen [Williams] before.

State: You have?

Corrections officer: Yes.

State: Okay. Okay. So, you do know him personally?

Corrections officer: Yes.

State: You can recognize him on sight, at least?

Corrections officer: Yes. We had to look him up last week for having drugs.

At that point, defense counsel objected, and the trial court immediately sustained the objection. The trial court further stated, “[t]he jury should disregard that statement.”

{¶53} Then, defense counsel requested a bench conference, wherein he asked for a mistrial. The State responded that the issue could be remedied with a curative instruction, and explained that the State was simply attempting to have the corrections officer identify Williams, not discuss the prior act. During the bench conference, defense counsel conceded that the State did not “elicit” the statement, but further stated, “it was blurted out and you can’t unring those bells.” The trial court overruled the motion and then once again instructed the jury that the statement made by the witness was irrelevant and should not be considered for any purpose at trial. The trial court also asked each juror whether he could follow that instruction, and each juror responded affirmatively.

{¶54} We note on appeal that the State argues that “other acts” evidence may be admissible for another purpose than proof that the defendant “acted in conformity therewith.” However, at trial, the State argued that it did not intend to elicit the other acts evidence at all – rather, its question was designed to elicit the simple statement that the corrections officer could identify Williams, and the corrections officer offered the additional information spontaneously. In so doing, the State argues that the admission of the evidence was not error. However, at trial, the trial court sustained defense counsel’s objection and immediately issued a curative instruction. The trial court then reiterated the instruction and ensured that the jury knew not to consider the statement for any purpose.

{¶55} “[A] curative instruction is an appropriate remedy, rather than a mistrial, for inadvertent answers given by a witness to an otherwise innocent question.” *State v. Howard*, 2005-Ohio-3702, ¶ 43 (2d Dist.) (when, in an aggravated robbery and felonious

assault trial, State witness inadvertently testified he met the defendant when they went to prison over a felonious assault, counsel was not ineffective for failing to ask for a mistrial when a curative instruction would suffice). “Further, a jury is presumed to follow curative instructions given by the trial court and therefore a trial court sustaining an objection and giving a curative instruction has been held to be enough to cure the taint from an improper statement.” *Id.*, citing *State v. Mobley*, 2002-Ohio-1792 at *2 (2d Dist.).

{¶56} It is well-settled that “ ‘[a] jury is presumed to follow the instructions, including curative instructions, given it by a trial judge.’ ” *State v. Meddock*, 2017-Ohio-4414, ¶ 48 (4th Dist.), quoting *State v. Plott*, 2017-Ohio-38, ¶ 122 (3d Dist.), quoting *State v. Garner*, 74 Ohio St.3d 49, 59 (1995). Thus, “we presume that the jury will follow the court’s curative instructions concerning improper witness comments.” *State v. Wharton*, 2010-Ohio-4775, ¶ 44 (4th Dist.), citing *State v. Ahmed*, 2004-Ohio-4190, ¶ 93; *State v. Herring*, 94 Ohio St.3d 246, 254 (2002). “However, we ... recognize that ‘occasionally curative instructions may not sufficiently eliminate the prejudicial impact of highly inflammatory evidence.’ ” *Id.*, citing *State v. Martin*, 2005-Ohio-1732, ¶ 46 (4th Dist.). “ ‘A party can rebut the presumption that curative instructions remedy a mistake by showing that the jury could not have ignored the evidence and that serious prejudice likely occurred.’ ” *Id.* quoting *Martin* at ¶ 46.

{¶57} Based on the record before us, we cannot find error. The trial court immediately sustained the objection, such that the impact of the offending evidence on the verdict is unlikely as the statement here was isolated and not specifically elicited by the State. See *State v. Ellison*, 2017-Ohio-284, ¶ 30 (4th Dist.) (trial court did not error

by failing to grant mistrial when witness referred to fact defendant had been to prison as the statement was isolated and not elicited by the State). Thus, the limiting instruction prevented any danger that the jury would unfairly consider the other acts evidence as proof of Williams's bad character or that he had acted in conformity therewith. See *State v. Cobb*, 2025-Ohio-1274, ¶ 35 (2d Dist.) (in trial for murder and having a weapon under disability, other acts evidence tending to show defendant was "drug addict" was not grounds for mistrial when trial court provided a curative instruction). Williams has not demonstrated from the record how the jury must not have followed the instruction. Additionally, the evidence at trial considered without the offending remark is substantial.

{¶58} Accordingly, we overrule Williams's third assignment of error.

CONCLUSION

{¶59} For the reasons set forth above, we overrule all three assignments of error and affirm the trial court.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the **JUDGMENT IS AFFIRMED** and appellant shall pay the costs.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Scioto County Common Pleas Court to carry this judgment into execution.

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

Abele, J. and Hess, J.: Concur in Judgment and Opinion.

For the Court,

BY: _____
Kristy S. Wilkin, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 22, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.