[Cite as *State v. Terrell*, 2026-Ohio-4374.]

**COURT OF APPEALS OF OHIO**

**EIGHTH APPELLATE DISTRICT**
**COUNTY OF CUYAHOGA**

| | | |
|---|---|---|
| STATE OF OHIO, | : | |
| Plaintiff-Appellee, | : | No. 116190 |
| v. | : | |
| DERRICK TERRELL, | : | |
| Defendant-Appellant. | : | |

JOURNAL ENTRY AND OPINION

**JUDGMENT:** AFFIRMED
**RELEASED AND JOURNALIZED:** November 5, 2026

Criminal Appeal from the Cuyahoga County Court of Common Pleas
Case No. CR-25-702207-A

***Appearances:***

Michael C. O'Malley, Cuyahoga County Prosecuting Attorney, and Joshua Mason, Assistant Prosecuting Attorney, *for appellee*.

Charles Ruiz-Bueno Co., L.P.A., and J. Charles Ruiz-Bueno, *for appellant*.

TIMOTHY W. CLARY, J.:

{¶ 1} Defendant-appellant Derrick Terrell ("Terrell") appeals from his convictions following a jury trial. For the following reasons, we affirm.

## I. Factual and Procedural History

{¶ 2} On May 23, 2025, a Cuyahoga County Grand Jury indicted Terrell on one count of aggravated trafficking in drugs in violation of R.C. 2925.03(A)(2), one count of aggravated possession of drugs in violation of R.C. 2925.11(A), one count of trespass in a habitation when a person is present or likely to be present in violation of R.C. 2911.12(B), one count of criminal damaging or endangering in violation of R.C. 2909.06(A)(1), two counts of failure to stop after an accident involving the property of others in violation of R.C. 4549.03(A), and one count of failure to stop after an accident in violation of R.C. 4549.02(A)(3). The drug charges both contained forfeiture specifications related to a cellphone and money.

{¶ 3} Terrell initially pleaded not guilty to the indictment. The case proceeded to a jury trial. The State elicited the following facts at trial.

{¶ 4} The charges in the case stemmed from a March 9, 2025 incident in which Terrell was driving on Memphis Avenue in Cleveland, Ohio and crashed through a fence and into two garages. Terrell proceeded to break into the front door of a home where he crashed. While inside the home, he left the red jacket he was wearing during the crash, his car keys, his driver's license, and a large amount of cash. The owner of the house, which was used as a short-term rental property, was not home at the time.

{¶ 5} Terrell fled the scene. In a subsequent search of his vehicle, law enforcement recovered nine vials of phencyclidine ("PCP"). Three days later, an eyewitness neighbor identified Terrell in a photo lineup with 90 percent certainty.

{¶ 6} The State called multiple neighbors who either witnessed the crash, witnessed Terrell in the immediate aftermath of the crash, or had personal security footage of the crash. One neighbor testified that at some point between 2:00 and 3:00 in the morning on March 9, 2025, his wife woke him up saying that she saw lights in their backyard. In response, the neighbor got up, quickly got dressed, and went out of his back door to find "a big scene of a car crash." (Tr. 343.) He testified that "it appeared that a car had come through my neighbor's yard, through his garage, and there was a car in my neighbor's garage, and it pushed that car through that garage through my fence all the way into my garage." (*Id.*) He testified that the vehicle that caused the damage was a Volkswagen SUV. During the State's direct examination of this witness, multiple photographs were introduced that the witness testified were accurate depictions of the damage to his and his neighbor's property. He testified that his garage was a total loss because it was shifted off the foundation during the crash; it had to be completely torn down and rebuilt.

{¶ 7} The State called a second neighbor, who testified that around 3:00 a.m. on March 9, 2025, he was getting ready to go to bed when he heard a "boom, a big crash." (Tr. 361.) He testified that he looked outside, saw a car alarm going off, and saw someone running, so he went outside to see what was happening. He testified that he started walking towards a car that had crashed through a fence and garage across the street from his house. The second neighbor called the police as he was walking towards the crash, and his 911 call was played during his direct examination. On the 911 call, the second neighbor described the crashed vehicle as

a gray Volkswagen and provided dispatch with the vehicle's license plate information. He observed that the car door was open and the alarm was going off, but no one was in the vehicle. The second neighbor testified that he saw another neighbor on their porch, and then he observed a man return to the Volkswagen and he appeared to retrieve a cellphone from the vehicle and then leave again. According to the second neighbor, this person was wearing a red jacket. The second neighbor testified that he observed the man's face when he came back to the vehicle, and at trial, he identified Terrell as the person he saw on the scene.

**{¶ 8}** The second neighbor testified that police and EMS responded to the scene and he gave a statement to the police describing what he had witnessed. He also testified that he had surveillance cameras on his house, facing Memphis Avenue, that captured the car going straight through the fence and garage across the street; he provided police detectives with that footage. The State played this footage at trial, and the witness confirmed that it depicted what he had described. He also testified that several days after the incident, he was presented with a photo lineup by police detectives and he was able to identify Terrell as the man he saw leave the scene with 90 percent certainty.

**{¶ 9}** The State also called Officer Joseph Walsh ("Officer Walsh"), who testified that he was a Cleveland police officer who responded to the call following the March 9, 2025 incident in this case. Officer Walsh testified that he responded to the scene at approximately 3:57 a.m. and immediately began speaking with neighbors and witnesses who were present on the scene. He testified that one

neighbor provided him with surveillance footage depicting a Volkswagen SUV crashing through a fence and garage, striking a second vehicle — a Mitsubishi Outlander — that was parked inside the garage and pushing that vehicle into a second garage. The State introduced Officer Walsh's body-camera footage, and he confirmed during his direct examination that the footage accurately depicted the scene. The footage depicted Officer Walsh conducting a preliminary search of the Volkswagen; he located a vial of PCP in the vehicle's center console. Officer Walsh testified that following a subsequent inventory of the vehicle, officers recovered additional vials of PCP.

{¶ 10} Officer Walsh testified that after searching the Volkswagen, he was advised by a supervisor on the scene to speak with the residents of 3616 Stanford Avenue because it appeared that the front door of that house had been broken down.

{¶ 11} Officer Walsh testified that he spoke on the phone to the owner of the home and garage that the Volkswagen struck; he confirmed that she was not home at the time of the incident. He also confirmed that the security cameras he observed in the home were working and the homeowner sent him footage from those cameras. The State introduced this footage at trial; footage recorded at 3:42 a.m. on March 9, 2025, showed a black male wearing black jeans and a red jacket approach the front door of the home, begin knocking on the door, and appear to be preparing to kick the door. Footage recorded at 3:51 a.m. showed the same man leaving the front door of the home.

{¶ 12} Officer Walsh testified that he conducted a search of the home after the accident; he confirmed that no one was in the home. He testified that he recovered a Volkswagen car key in the home's stairwell, an Ohio driver's license at the top of the home's landing, a red jacket in the bathroom, an iPhone in a black case, and a "large amount of money scattered throughout all the rooms in the home as well as that upstairs hallway, and we also found a wallet as well." (Tr. 402.) Officer Walsh testified that in total $4,709 was recovered in the home and that the driver's license belonged to Terrell, who also came back as the registered owner of the crashed Volkswagen. The State introduced the driver's license, wallet, and red jacket as evidence at trial.

{¶ 13} The State called Sergeant Dillon Lutgring ("Sergeant Lutgring"), who testified that he was the sergeant in charge of the incident in this case. The State introduced Sergeant Lutgring's body-camera footage depicting his arrival on the scene and his sweep of the house. Sergeant Lutgring testified that he did not conduct an inventory of the Volkswagen but the officer who did search the vehicle notified him of certain items that were found in the vehicle. The following exchange took place:

> ASSISTANT PROSECUTING ATTORNEY ["APA"]: When — did you ever learn what was recovered from the vehicle?
>
> SERGEANT LUTGRING: Yes. She notifies me that she found —
>
> DEFENSE COUNSEL: Objection.
>
> THE COURT: Sustained.

APA: Without going into what was said, for purposes of you being the reviewing officer for the reports and overseeing what's happening, did you ever learn just for purposes of your investigation and you guys being on scene, did you ever learn what was recovered from the vehicle?

SERGEANT LUTGRING: Yes.

APA: And what was it?

SERGEANT LUTGRING: About nine vials of suspected PCP.

APA: Okay. And was that tagged and logged to your knowledge?

SERGEANT LUTGRING: Yes.

APA: Is that in accordance with policy?

SERGEANT LUTGRING: Yes.

APA: Pulling up State's Exhibit[s] 1 through 15. Specifically, I'm going to turn to State's Exhibit 13. Sergeant, can you tell me what State's Exhibit 13 is?

SERGEANT LUTGRING: Appears to be a bag with the suspected PCP in the vials.

APA: Okay. Enhancing — zooming in on the vials, is that what you recall Officer Wolski recovering from the vehicle?

SERGEANT LUTGRING: Yes.

APA: Was there anything else that was recovered from the vehicle as part of the inventory?

SERGEANT LUTGRING: A cell phone, and I believe over $4 in change.

APA: Okay. And what was recovered — I think you already mentioned in the home, correct me if I'm wrong, that there was money that was recovered from the home?

SERGEANT LUTGRING: Yes.

APA: And about how much money was recovered?

SERGEANT LUTGRING: Over $4,700.

APA: Okay. As — in your training and your experience, when you see $4,000 in cash and you see —

DEFENSE COUNSEL: Objection.

THE COURT: Let's hear the question first.

APA: And you see nine vials of suspected PCP and a phone, what are — what evidentiary value is it for evidence of trafficking?

DEFENSE COUNSEL: Objection.

THE COURT: Sustained.

(Tr. 475-477.) The parties then had a sidebar with the court.

{¶ 14} Following the sidebar, the following exchange occurred:

APA: Sergeant, what are you currently doing in your role at CPD?

SERGEANT LUTGRING: I'm the second district vice sergeant.

APA: Okay. And as a vice sergeant, what kind of things are you doing now?

SERGEANT LUTGRING: We investigate drug activity, drug trafficking, prostitution, liquor law violations and gambling.

APA: Okay. And in your experience with the vice unit, what kinds of cases do you respond to generally?

SERGEANT LUTGRING: Drug trafficking primarily.

APA: And what do you look for in a case?

SERGEANT LUTGRING: We look for —

DEFENSE COUNSEL: Objection.

THE COURT: Sustained.

APA: One moment, Your Honor. In this case the amount of — the amount of suspected PCP that was recovered by your unit by your

colleagues and the scene that you responded to, in your training and experience —

DEFENSE COUNSEL: Objection.

THE COURT: Sustained.

APA: Sergeant, how many — how long have you been in the vice unit?

SERGEANT LUTGRING: Approximately six months.

APA: And how many cases — or drug-related cases have you responded to?

SERGEANT LUTGRING: Probably — we have several investigations going at a time. Probably anywhere about two dozen, three dozen.

APA: And what kind of training did you have to undergo to become a part of the vice unit?

SERGEANT LUTGRING: For training, I wasn't required to complete any additional with the division. On my own, however, I have sought out training with HIDTA, the high intensity traffic — pardon me, High Intensity Drug Trafficking Association. Last year I attended a two-day course for recognizing illicit narcotics; and then the year before, I attended a three-day course for drug trafficking as well.

APA: What does that consist of?

SERGEANT LUTGRING: It consists of a subject matter expert coming in teaching students the — what different narcotics look like, the behavior of people that use drugs, evidence to look for for drug trafficking or drug use.

APA: And what are those — what are you looking for?

SERGEANT LUTGRING: We're looking for illicit narcotics themselves. We're looking for U.S. currency, particularly in various denominations and in high quantities. We're looking for cell phones. We're looking for scales. We're looking for paper bindles, plastic baggies that are torn off that would normally be used for sandwiches, digital scales.

APA: And in the case with PCP, are you —

DEFENSE COUNSEL: Your Honor, can we approach, please?

(Tr. 477-480.) The parties then had a second sidebar with the court. Following the sidebar, the State had no additional questions for Sergeant Lutgring.

**{¶ 15}** The parties stipulated to the admissibility and authenticity of the drug chemistry laboratory report confirming that the vials found in the Volkswagen contained PCP and to the audio recording of a jail call made by Terrell in which he referenced the case.

**{¶ 16}** At the close of the State's case, Terrell made a Crim.R. 29 motion for acquittal. The court denied this motion.

**{¶ 17}** Terrell then testified on his own behalf, against the advice of his counsel. Terrell testified that in September 2024, he was released from federal prison following a conviction for possession of PCP. He further testified that he had previously served a 151-month federal-prison sentence after pleading guilty to conspiracy to distribute PCP. Finally, he testified that he also had a federal conviction for possession of a firearm.

**{¶ 18}** When asked to explain what happened on the night of the incident in the underlying case, Terrell testified that he was leaving a memorial for his aunt and he had recently buried his mother and another close relative. Terrell testified, in relevant part:

> I had another jar of PCP. I had a 16 ounce — a 16 ounce mason jar. And when you open the top, the top keeps coming apart. So basically, I was reckless with that bottle.
>
> I just kept opening it up and all that stuff kept getting on my hands. And I smoke Black and Milds, so I freaked the Black and Mild and all that stuff got on the Black and Mild, so — and it basically, it just — it flipped me out.

. . .

Eventually — I mean, PCP is a hallucinogenic. So, basically, it made me flip out. It tweaked — I tweaked out, went 100 miles an hour, and I crashed into that — I ended up crashing. I basically had blacked out for a minute. So I crashed into the garage.

First thing I did when I crashed was I knew that I was in trouble. I'm on federal parole. I'm on state parole also from back in 2007.

I knew that I had stuff in the car. I reached in my — I reached — I opened the armrest. I grabbed all nine of the vials. I took them and put them nine bottles in my pocket.

I took the big mason jar. I needed that hood. So I put the hood on real quick. I took that mason jar and put it in my pocket because I seen all the witnesses outside.

I jumped out the car with all that stuff in my pocket. I couldn't go too far because I was hurt. I had — I didn't know it, but I had broke my sternum same time I had misplaced a couple bones in my hand. So there was a lot of things I couldn't do.

I knew that for sure about — I've been dealing with the law for a long time. 31 years ago I came into this building.

I knew that if I get this stuff out of everybody else's eyesight and get it around the corner or something, I can get rid of it.

So I bend the corner. When I bend the corner, there was a silver fence in front. It was a silver fence right there. I went to the corner of that silver fence, took them nine bottles out of my pocket, threw them nine bottles over that fence.

I opened that mason jar up. For some reason, I just — I guess I was covering my tracks greatly. Because, eventually, I opened that mason jar up, and I poured that mason jar over that fence.

That's how them bottles got wet when that lady touched them. But after that, I — elements of me being able to jump a fence, me being able to get away and stuff, I couldn't just chance trying to take off because there's a lot of things I couldn't do.

It was an Airbnb right there. I saw it. It was — you can tell it was vacant and all this. And my mind was just thinking. I was in over —

> I'm trying to get away because I got — I'm not worried about State. I was more worried about the feds than anything.
>
> I went over to that door, tried to knock on it, make sure wasn't nobody there. When didn't nobody answer the door, I kicked the door in.
>
> I needed to make some kind of thing to where I could get away because I — I don't got time.
>
> I went — go in the house real quick, create a scene. I started throwing money. I go upstairs, all this kind of stuff.
>
> So I'm throwing everything because I knew that once the police came there and they see that door open, they got to stop.
>
> When I was done doing all that, I came back out the front of — I came back out the front door. I went back to the car. I grabbed my phone out of there.

(Tr. 607-611.)

**{¶ 19}** On cross-examination, Terrell confirmed that he possessed a mason jar of PCP, that he sold PCP, and that he left the scene of the accident. Terrell did not call any other witnesses or present any additional evidence in his defense.

**{¶ 20}** Terrell renewed his Crim.R. 29 motion, and the court again denied the motion.

**{¶ 21}** On February 5, 2026, the jury returned a verdict of guilty on all counts and specifications. The court proceeded directly to sentencing. The court merged the aggravated-trafficking and aggravated-possession convictions for sentencing, and the State elected to proceed with sentencing on the aggravated-trafficking charge. The court also merged the failure-to-stop convictions for sentencing, and the State elected to proceed with sentencing on the charge of failure to stop after an accident. The court sentenced Terrell to a total aggregate sentence of seven to ten

and one-half years in prison and ordered Terrell to pay $3,500 in restitution to the victims.

**{¶ 22}** Terrell appealed and now raises a single assignment of error for our review:

> Defendant-appellant was denied a fair trial under the Cumulative Error Doctrine where the trial court failed to give Curative Instructions to the jury after sustaining objections to the State's repeated questions on the same topic, etching the State's illicit questions into the jurors' minds and leaving Defendant-Appellant no choice but to testify.

## II. Law and Analysis

**{¶ 23}** In his sole assignment of error, Terrell argues that he was denied a fair trial due to the cumulative effect of claimed errors that occurred during his trial.

**{¶ 24}** Under the cumulative error doctrine, ""a conviction will be reversed where the cumulative effect of errors in a trial deprives a defendant of the constitutional right to a fair trial even though each of the numerous instances of trial court error does not individually constitute cause for reversal."" *State v. Wallace*, 2021-Ohio-4612, ¶ 29 (8th Dist.), quoting *State v. Chesler*, 2015-Ohio-711, ¶ 48 (11th Dist.), quoting *State v. DeMarco*, 31 Ohio St.3d 191 (1987), paragraph two of the syllabus. The doctrine is only applicable when the record reveals numerous instances of trial-court error. *Id.* Further, harmless or nonprejudicial errors cannot become prejudicial by sheer weight of numbers alone. *State v. Wilson*, 2019-Ohio-338, ¶ 24 (12th Dist.), citing *State v. Hill*, 1996-Ohio-222.

**{¶ 25}** Terrell's argument focuses on the trial court's alleged failure to give a curative instruction to the jury after the court sustained numerous defense

objections during the State's direct examination of Sergeant Lutgring. He argues that this line of questioning left Terrell with no choice but to testify on his own behalf. We disagree.

**{¶ 26}** The responsibility to request curative instructions lies with the defendant. *Wallace* at ¶ 30. Therefore, "'[w]hen defense counsel fails to request a curative instruction, any error in the trial court's failure to give one is waived.'" *Id.*, quoting *State v. Freeman*, 2009-Ohio-5218, ¶ 23 (8th Dist.). Thus, because Terrell did not request a curative instruction at the trial court, he has waived the issue on appeal. Further, "because the failure to request a curative instruction is not an error attributed to the trial court, the cumulative error doctrine does not apply." *Id.* at ¶ 31, citing *Chesler* at ¶ 48.

**{¶ 27}** Moreover, we note that Terrell provides no support for his assertion that he was essentially "compelled" to testify on his own behalf as a result of the State's direct examination of Sergeant Lutgring. Our review of the record reveals that Terrell was not compelled to testify; on the contrary, the record reflects that both defense counsel and the court made sure that Terrell understood the "perils" of testifying at trial, given his extensive federal criminal history and the significant evidence presented against him.

**{¶ 28}** For these reasons, we cannot conclude that Terrell was denied a fair trial due to cumulative error. Terrell's sole assignment of error is overruled.

**{¶ 29}** Judgment affirmed.

It is ordered that appellee recover from appellant costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry this judgment into execution. The defendant's conviction having been affirmed, any bail pending appeal is terminated.

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

_____
TIMOTHY W. CLARY, JUDGE

MICHELLE J. SHEEHAN, A.J., and
EILEEN T. GALLAGHER, J., CONCUR