

OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT, FAIRFIELD COUNTY

State v. Lewis

2026-Ohio-904 · No. 25CA023 · Decided March 18, 2026

SUMMARY

The Fifth District Court of Appeals of Ohio affirmed Jennifer Lewis's misdemeanor theft conviction from the Fairfield County Municipal Court. The court rejected her claims of prosecutorial misconduct based on witness questioning and closing argument, concluding that no plain error occurred. It also rejected her ineffective-assistance claim because trial counsel was not deficient for failing to object to permissible questioning and argument.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District, Fairfield County
WRITING FOR THE COURT	David M. Gormley; Craig R. Baldwin; Robert G. Montgomery
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District, Fairfield County
DECIDED	March 18, 2026
DOCKET	25CA023
DISPOSITION	affirmed
PROCEDURAL POSTURE	Jennifer L. Lewis appealed her misdemeanor theft conviction following a jury trial in the Fairfield County Municipal Court, asserting prosecutorial misconduct and ineffective assistance of trial counsel.
STANDARD OF REVIEW	Because Lewis did not object at trial, the prosecutorial-misconduct claims were reviewed for plain error. Ineffective-assistance claims were analyzed under the two-pronged Strickland standard, requiring deficient performance and resulting prejudice.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Jennifer L. Lewis v. State of Ohio

TOPICS

- prosecutorial misconduct
- ineffective assistance
- appellate procedure
- criminal procedure
- evidence

PRACTICE AREAS

criminal law

criminal procedure

appellate law

legal ethics

QUESTIONS PRESENTED

1. Whether the prosecutor committed plain error by questioning witnesses about a store employee's honesty and Lewis's intent, and by referring to that testimony during closing argument.
2. Whether trial counsel rendered ineffective assistance by failing to object to the prosecutor's questions and closing argument.

HOLDINGS

1. The prosecutor did not commit prosecutorial misconduct or plain error by eliciting testimony about the police officer's prior experience with the store employee, referring to that testimony in closing argument, or asking the employee whether he had no doubt that Lewis intended to steal the unscanned items.
2. Lewis failed to establish ineffective assistance because the challenged prosecutorial questioning and argument were not improper, and counsel cannot be deemed deficient for failing to object to admissible or permissible matters.

KEY QUOTATIONS

"We embrace an allegation that plain error has occurred with the utmost caution, under exceptional circumstances, and only to prevent a manifest miscarriage of justice." (¶ 5)

"Vouching occurs when the prosecutor states or implies that he or she has knowledge of facts outside the record, expresses a personal belief or opinion about the credibility of a witness, or otherwise places his or her personal credibility in issue." (¶ 9)

FACTUAL BACKGROUND

Lewis visited a Walmart in Lancaster, Ohio, and used a self-checkout lane. She scanned 13 of the 20 items in her cart and attempted to leave with all 20 items. A store asset-protection employee stopped her, and a police officer investigated. Lewis was charged with misdemeanor theft, tried before a jury, and convicted.

PROCEDURAL HISTORY

Lewis was charged with one count of misdemeanor theft after a Walmart incident. Following a jury trial, she was convicted in the Fairfield County Municipal Court. The Ohio Court of Appeals, Fifth Appellate District, overruled both assignments of error and affirmed the judgment.

DISPOSITION

affirmed

CASES CITED

- State v. Bright, 2025-Ohio-725, ¶¶ 7, 10 (5th Dist.)
- State v. Dunlap, 2004-Ohio-6652, ¶ 34 (8th Dist.)
- State v. Long, 53 Ohio St.2d 91 (1978), paragraph three of the syllabus
- State v. Montgomery, 2015-Ohio-3066, ¶ 15 (5th Dist.)
- State v. Myers, 2018-Ohio-1903, ¶ 145
- State v. Adkins, 2018-Ohio-2588, ¶ 106 (6th Dist.)
- State v. Encarnacion, 2017-Ohio-5530, ¶ 9 (10th Dist.)
- Strickland v. Washington, 466 U.S. 668, 687-688, 694 (1984)
- State v. Elliott, 2024-Ohio-3376, ¶ 148 (10th Dist.)
- State v. Alford, 2024-Ohio-4637, ¶ 80 (5th Dist.)

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