

OHIO COURT OF APPEALS, SECOND APPELLATE DISTRICT, CLARK  
COUNTY

State v. Sweeney

2026-Ohio-57 · No. 2023-CA-58 · Decided January 9, 2026

SUMMARY

In this reopened criminal appeal, the Ohio Second District Court of Appeals held that the trial court plainly erred by admitting a BCI laboratory report without compliance with the statutory requirements of Ohio Revised Code 2925.51. The court found that the report was the only evidence establishing that the substance was methamphetamine, reversed the conviction for aggravated possession of drugs, vacated its prior judgment, and remanded for a new trial. The court also held that prior appellate counsel was ineffective for failing to raise the admissibility issue.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Ohio Court of Appeals, Second Appellate District, Clark County                                                                                                                                                                                                                                                                                                                                                                        |
| WRITING FOR THE COURT | Robert G. Hanseman; Presiding Judge Epley; Judge Huffman                                                                                                                                                                                                                                                                                                                                                                              |
| JURISDICTION          | Ohio Court of Appeals, Second Appellate District, Clark County                                                                                                                                                                                                                                                                                                                                                                        |
| DECIDED               | January 9, 2026                                                                                                                                                                                                                                                                                                                                                                                                                       |
| DOCKET                | 2023-CA-58                                                                                                                                                                                                                                                                                                                                                                                                                            |
| DISPOSITION           | reversed_and_remanded                                                                                                                                                                                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Reopened criminal appeal under Ohio Appellate Rule 26(B) from Sweeney's conviction for aggravated possession of drugs. The court considered the merits of the direct appeal and whether prior appellate counsel was ineffective for failing to challenge admission of the BCI laboratory report.                                                                                                                                      |
| STANDARD OF REVIEW    | Plain-error review applied to the unpreserved challenge to admission of the BCI laboratory report. Sufficiency of the evidence was reviewed under whether, viewing all evidence admitted at trial in the light most favorable to the State, any rational factfinder could find the essential elements proven beyond a reasonable doubt. Ineffective assistance of appellate counsel was evaluated under the two-part Strickland test. |
| PRECEDENTIAL VALUE    | Published Ohio Court of Appeals opinion                                                                                                                                                                                                                                                                                                                                                                                               |
| PARTIES               | Timothy Sweeney v. State of Ohio                                                                                                                                                                                                                                                                                                                                                                                                      |

## TOPICS

appellate procedure

post-conviction relief

evidence

criminal procedure

harmless error

## PRACTICE AREAS

criminal procedure

appellate procedure

evidence

post-conviction relief

## QUESTIONS PRESENTED

1. Whether the trial court committed plain error by admitting the BCI laboratory report as prima facie evidence under R.C. 2925.51 when the report lacked the statutory qualifications statement and notice of the right to demand the analyst's testimony.
2. Whether the conviction was supported by sufficient evidence when the improperly admitted laboratory report was considered as part of the evidence admitted at trial.
3. Whether trial counsel's ineffective-assistance claim was moot after the court resolved the evidentiary error.
4. Whether prior appellate counsel was ineffective for failing to challenge the admission of the BCI laboratory report on direct appeal.

## HOLDINGS

1. The trial court committed plain error by admitting the BCI laboratory report as prima facie evidence because the State did not comply with R.C. 2925.51(A) and (D); the report lacked the required notarized statement concerning the analyst's qualifications and testing procedures and lacked notice of the right to demand the analyst's testimony.
2. The sufficiency claim was not moot, but it failed because a reviewing court must consider all evidence admitted at trial, including evidence improperly admitted as the basis for reversal. Considering the laboratory report and trial testimony, the conviction was supported by sufficient evidence.
3. Sweeney established ineffective assistance of appellate counsel because prior counsel unreasonably failed to raise the nonfrivolous challenge to admission of the BCI laboratory report and that failure prejudiced the appeal.

## KEY QUOTATIONS

*“When the state has complied with its obligations under R.C. 2925.51, a defendant’s failure to use the procedures of R.C. 2925.51(C) to demand that a laboratory analyst testify constitutes a waiver of the opportunity to cross-examine the analyst at trial and allows the analyst’s report to be admitted as prima facie evidence of the test results.” (¶ 12)*

*“When evaluating an assignment of error challenging the sufficiency of the evidence, a reviewing court must consider all evidence admitted at trial, including the improperly admitted evidence that was the source of the reversal for trial error.” (¶ 24)*

*“Under Strickland, an applicant must show that (1) counsel’s performance was objectively unreasonable, . . . and (2) there is ‘a reasonable probability that, but for counsel’s unprofessional errors, the result of the*

*proceeding would have been different.”* (¶ 30)

## FACTUAL BACKGROUND

Detective Nicholas Moody arrested Sweeney on an outstanding warrant and observed him briefly crouch beside a maroon Cadillac. Officers found two bags containing a white crystalline substance under the vehicle. The State used a BCI laboratory report, introduced through Moody rather than the testing forensic scientist, to establish that the substance was 4.82 grams of methamphetamine. The report lacked the statutory notarized qualifications statement and notice of the right to demand the analyst's testimony.

## PROCEDURAL HISTORY

Following a jury trial in the Clark County Court of Common Pleas, Sweeney was convicted of aggravated possession of drugs under R.C. 2925.11(A). The court of appeals previously affirmed the conviction on September 6, 2024. After granting Sweeney's App.R. 26(B) application for reopening, the court ordered supplemental briefing on ineffective assistance of appellate counsel. The court sustained the challenge to admission of the laboratory report, found prior appellate counsel ineffective, vacated its prior judgment, reversed the conviction, and remanded for a new trial.

## DISPOSITION

reversed\_and\_remanded

## REMAND INSTRUCTIONS

The prior appellate judgment affirming Sweeney's conviction is vacated, the trial court's judgment of conviction is reversed, and the matter is remanded to the Clark County Court of Common Pleas for a new trial.

## CASES CITED

- State v. Clark, 2025-Ohio-4410, ¶¶ 18-20
- State v. Bennett, 2024-Ohio-4557, ¶ 44 (4th Dist.)
- State v. Pasqualone, 2009-Ohio-315, paragraph two of the syllabus
- State v. Davis, 2007-Ohio-7216, ¶ 55 (7th Dist.)
- State v. Smith, 2006-Ohio-1661, ¶ 20 (3d Dist.)
- State v. Bethel, 2002-Ohio-5437, ¶ 9 (5th Dist.)
- City of Kettering v. Maston, 2018-Ohio-1948, ¶¶ 34-35 (2d Dist.)
- State v. Rodgers, 2015-Ohio-2459, ¶ 22
- State v. Jack, 2012-Ohio-2131, ¶ 19 (3d Dist.)
- State v. Gideon, 2020-Ohio-6961, ¶¶ 27-29
- State v. Brewer, 2009-Ohio-593, ¶¶ 7-8, 24-26
- State v. Mathis, 2020-Ohio-3068, ¶ 78 (6th Dist.)
- State v. Vanni, 2009-Ohio-2295, ¶ 15 (9th Dist.)

- State v. Bansobeza, 2025-Ohio-2704, ¶ 27 (2d Dist.)
- State v. Blevins, 2011-Ohio-381, ¶ 7 (2d Dist.)
- State v. Wilson, 2009-Ohio-525, ¶ 10 (2d Dist.)
- State v. Thompson, 78 Ohio St. 3d 380 (1997)
- State v. Dennis, 79 Ohio St. 3d 421, 430 (1997)
- Strickland v. Washington, 466 U.S. 668, 694 (1984)
- State v. Johnson, 2025-Ohio-3137, ¶ 26 (4th Dist.)
- Smith v. Robbins, 528 U.S. 259, 285 (2000)
- State v. Simpson, 2020-Ohio-6719, ¶ 22
- Schindler v. Cornett, 2014-Ohio-3352, ¶ 36 (2d Dist.)
- Greenlaw v. United States, 554 U.S. 237, 243-244 (2008)
- Snyder v. Old World Classics, L.L.C., 2025-Ohio-1875, ¶ 4

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