

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
OHIO

Michael Griffin v. Gary Galloway, Warden, Chillicothe Correctional
Institution

Case No. 1:25-cv-00793 · No. 1:25-cv-00793 · Decided February 25, 2026

SUMMARY

This Report and Recommendations addresses Michael Griffin’s federal habeas corpus petition challenging his Ohio convictions for breaking and entering, safecracking, grand theft, and theft. The recommendations conclude that the first ground is procedurally defaulted and meritless, while the insufficient-evidence and Fifth Amendment claims should be dismissed on the merits under the deferential standards of 28 U.S.C. § 2254.

CASE DETAILS

COURT	United States District Court for the Southern District of Ohio
WRITING FOR THE COURT	Michael R. Merz
JURISDICTION	United States District Court for the Southern District of Ohio
DECIDED	February 25, 2026
DOCKET	1:25-cv-00793
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendations by a federal magistrate judge on a state prisoner's petition for a writ of habeas corpus under 28 U.S.C. § 2254. The magistrate judge recommended dismissal with prejudice, denial of a certificate of appealability, and certification that any appeal would be objectively frivolous.
STANDARD OF REVIEW	Under the Antiterrorism and Effective Death Penalty Act, relief on claims adjudicated on the merits is unavailable unless the state-court decision was contrary to, or involved an objectively unreasonable application of, clearly established Supreme Court precedent, or was based on an unreasonable determination of the facts. Sufficiency-of-the-evidence claims receive two layers of deference: deference to the jury under Jackson v. Virginia and deference to the state appellate court under AEDPA. Procedural-default claims are analyzed under the Maupin framework.

PRECEDENTIAL VALUE	nonprecedential
PARTIES	Michael Griffin v. Gary Galloway, Warden, Chillicothe Correctional Institution

TOPICS

federal habeas corpus post-conviction relief evidence due process fifth amendment

PRACTICE AREAS

federal habeas corpus criminal procedure evidence constitutional law

QUESTIONS PRESENTED

1. Whether Griffin's federal habeas claim challenging the admission of other-acts evidence concerning a pending Hamilton County charge was procedurally defaulted because trial counsel failed to contemporaneously object.
2. Whether the state appellate court's determination that the evidence was constitutionally sufficient to establish Griffin's identity was contrary to or an unreasonable application of Jackson v. Virginia and AEDPA.
3. Whether Griffin's Fifth Amendment privilege against self-incrimination entitled him to testify in his own defense while restricting cross-examination concerning the Hamilton County offense.

HOLDINGS

1. The first habeas ground should be dismissed as procedurally defaulted because Griffin's counsel did not make a contemporaneous objection, the state appellate court enforced the default by reviewing only for plain error, Ohio's contemporaneous-objection rule is an adequate and independent state ground, and Griffin showed neither cause nor prejudice.
2. Even apart from procedural default, the challenge to admission of evidence concerning the pending Hamilton County offense lacked merit because the evidence was admitted for the nonpropensity purpose of proving identity through modus operandi and did not violate clearly established federal law.
3. The second habeas ground should be dismissed because the state appellate court reasonably determined that a rational factfinder could find beyond a reasonable doubt that Griffin was the perpetrator.
4. The third habeas ground should be dismissed because the Fifth Amendment does not give a defendant the right to testify selectively while preventing proper cross-examination about the matters placed in issue.

KEY QUOTATIONS

“In an appeal from a denial of habeas relief, in which a petitioner challenges the constitutional sufficiency of the evidence used to convict him, we are thus bound by two layers of deference to groups who might view facts differently than we would.” (Ground Two analysis)

“The Fifth Amendment does not give a defendant the privilege of choosing to put favorable testimony before a jury but then keeping to themselves the facts that would be revealed by proper cross-examination.” (Ground Three analysis)

“Based on the foregoing analysis, the Magistrate Judge respectfully recommends the Petition be dismissed with prejudice.” (Conclusion)

FACTUAL BACKGROUND

A Clermont County grand jury indicted Griffin for a series of break-ins, safecrackings, and theft offenses. At trial, the prosecution presented surveillance evidence depicting a distinctive modus operandi, including dark clothing, a balaclava, a yellow circular saw with a red blade, attacks on ATM machines, and escape by electric scooter. The prosecution also introduced evidence concerning a similar pending Hamilton County offense and Amazon purchase-history evidence linking Griffin to items consistent with those depicted in the surveillance videos. Griffin did not testify after the trial court ruled that, if he testified, he could be subject to cross-examination concerning the Hamilton County offense.

PROCEDURAL HISTORY

A Clermont County, Ohio, jury convicted Griffin of four counts of breaking and entering, four counts of safecracking, one count of grand theft, and two counts of theft, and he was sentenced to eight years in prison. The Ohio Twelfth District Court of Appeals affirmed after reviewing the unpreserved evidentiary claim for plain error, and the Ohio Supreme Court declined jurisdiction. Griffin then filed this federal habeas petition raising claims concerning other-acts evidence, sufficiency of the evidence, and the Fifth Amendment privilege against self-incrimination. The magistrate judge recommended dismissal of all three grounds and permitted the parties to object under Federal Rule of Civil Procedure 72(b).

DISPOSITION

other

CASES CITED

- Barton v. Warden, S. Ohio Corr. Facility, 786 F.3d 450, 464 (6th Cir. 2015)
- Guilmette v. Howes, 624 F.3d 286, 290 (6th Cir. 2010) (en banc)
- Eley v. Bagley, 604 F.3d 958, 965 (6th Cir. 2010)
- Reynolds v. Berry, 146 F.3d 345, 347-48 (6th Cir. 1998)
- Maupin v. Smith, 785 F.2d 135, 138 (6th Cir. 1986)
- Lott v. Coyle, 261 F.3d 594, 601-02 (6th Cir. 2001)
- Jacobs v. Mohr, 265 F.3d 407, 417 (6th Cir. 2001)
- County Court of Ulster County v. Allen, 442 U.S. 140, 149 (1979)
- State v. Murphy, 91 Ohio St. 3d 516, 532, 747 N.E.2d 765, 788 (Ohio 2001)
- State v. Mason, 82 Ohio St. 3d 144, 162 (1998)

- Scott v. Mitchell, 209 F.3d 854 (6th Cir. 2000)
- Wainwright v. Sykes, 433 U.S. 72, 88-90 (1977)
- Hinkle v. Randle, 271 F.3d 239, 244 (6th Cir. 2001)
- Engle v. Isaac, 456 U.S. 107, 124-29 (1982)
- Wogenstahl v. Mitchell, 668 F.3d 307, 337 (6th Cir. 2012)
- Jells v. Mitchell, 538 F.3d 478, 511 (6th Cir. 2008)
- Lundgren v. Mitchell, 440 F.3d 754, 765 (6th Cir. 2006)
- White v. Mitchell, 431 F.3d 517, 525 (6th Cir. 2005)
- Biros v. Bagley, 422 F.3d 379, 387 (6th Cir. 2005)
- Harrington v. Richter, 562 U.S. 86 (2011)
- Cunningham v. Shoop, 23 F.4th 636, 650 (6th Cir. 2022)
- Brown v. Payton, 544 U.S. 133, 140 (2005)
- Bell v. Cone, 535 U.S. 685, 693-94 (2002)
- Williams v. Taylor, 529 U.S. 362, 379 (2000)
- Hendrix v. Palmer, 893 F.3d 906, 917 (6th Cir. 2018)
- Fleming v. Metrish, 556 F.3d 520, 532 (6th Cir. 2009)
- Kittka v. Franks, 539 F. App'x 668, 672 (6th Cir. 2013)
- Bond v. McQuiggan, 506 F. App'x 493, 498 n. 2 (6th Cir. 2013)
- Jackson v. Virginia, 443 U.S. 307, 319, 324 (1979)
- In re Winship, 397 U.S. 358, 364 (1970)
- Johnson v. Coyle, 200 F.3d 987, 991 (6th Cir. 2000)
- Bagby v. Sowders, 894 F.2d 792, 794 (6th Cir. 1990) (en banc)
- Brown v. Konteh, 567 F.3d 191, 205 (6th Cir. 2009)
- Parker v. Matthews, 567 U.S. 37, 43 (2012) (per curiam)
- Tucker v. Palmer, 541 F.3d 652 (6th Cir. 2008)
- Davis v. Lafler, 658 F.3d 525, 531 (6th Cir. 2011) (en banc)
- Cavazos v. Smith, 565 U.S. 1, 132 S. Ct. 2, 181 L. Ed. 2d 311 (2011) (per curiam)
- Coleman v. Johnson, 566 U.S. 650, 651 (2012) (per curiam)
- State v. Jenks, 61 Ohio St. 3d 259 (1991)
- State v. Roten, 2002-Ohio-4488, ¶ 12 (12th Dist.)
- Lefkowitz v. Turley, 414 U.S. 70 (1973)
- Bryan v. Bobby, 843 F.3d 1099 (6th Cir. 2016)
- White v. Woodall, 572 U.S. 415, 419-20, 426 (2014)
- Greene v. Fisher, 565 U.S. 34, 38 (2011)
- Early v. Packer, 537 U.S. 3, 8 (2002)
- Jones v. Bell, 801 F.3d 556, 564 (6th Cir. 2015)
- Newman v. Metrish, 543 F.3d 793, 797 (6th Cir. 2008)

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