

OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT, RICHLAND
COUNTY

State v. Ware

2023-Ohio-1807 (Ohio Ct. App. 2023) · No. 22CA48; 22CA49 · Decided May 30, 2023

SUMMARY

The Ohio Fifth District Court of Appeals affirmed Abram Ware's convictions and sentences in two Richland County criminal cases. The court held that counsel was not ineffective for failing to present additional suppression-hearing evidence because the officers had reasonable suspicion to conduct an investigative stop. The court also rejected constitutional challenges to indefinite prison terms under the Reagan Tokes Act.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District, Richland County
WRITING FOR THE COURT	Andrew J. King, J.; W. Scott Gwin, P.J.; John W. Wise, J.
JURISDICTION	Ohio
DECIDED	May 30, 2023
DOCKET	22CA48; 22CA49
DISPOSITION	affirmed
PROCEDURAL POSTURE	Ware appealed from judgments of the Richland County Court of Common Pleas denying his motion to suppress, entering bench-trial convictions on multiple drug-related offenses, and imposing consecutive indefinite prison terms under the Reagan Tokes Act.
STANDARD OF REVIEW	Ineffective-assistance claims are evaluated under Strickland's deficient-performance and prejudice standards. The legality of an investigative stop turns on whether the officers had reasonable suspicion based on specific and articulable facts under the totality of the circumstances.
PRECEDENTIAL VALUE	published Ohio appellate opinion
PARTIES	Abram Ware v. State of Ohio

TOPICS

- ineffective assistance
- suppression of evidence
- fourth amendment
- sentencing
- due process

PRACTICE AREAS

criminal procedure

constitutional law

criminal defense

sentencing

QUESTIONS PRESENTED

1. Whether trial counsel was ineffective for failing to present Officer Jordan Moore's testimony and dash-camera footage at the suppression hearing to show that Ware was detained without reasonable suspicion.
2. Whether indefinite prison terms imposed under the Reagan Tokes Act, R.C. 2967.271, violate the jury-trial guarantee, separation-of-powers principles, or due-process protections under the federal and Ohio Constitutions.

HOLDINGS

1. Counsel was not ineffective because Ware failed to establish deficient performance and prejudice; the evidence presented at the suppression hearing, viewed under the totality of the circumstances, showed that officers had reasonable, articulable suspicion to conduct an investigative stop.
2. The Reagan Tokes Act does not violate the constitutional rights to trial by jury or due process, and does not violate separation-of-powers principles.

KEY QUOTATIONS

“To prevail on a claim of ineffective assistance of counsel, a defendant must demonstrate: (1) deficient performance by counsel, i.e., that counsel's performance fell below an objective standard of reasonable representation, and (2) that counsel's errors prejudiced the defendant, i.e., a reasonable probability that but for counsel's errors, the result of the trial would have been different.” (¶ 18)

“An investigative stop, or Terry stop, is a common exception to the Fourth Amendment warrant requirement.” (¶ 20)

“Based on all information available to the officers, we find both Boggs and Moore had reasonable articulable suspicion of criminal activity which justified an investigatory stop of Ware.” (¶ 24)

FACTUAL BACKGROUND

Police responded to an Enterprise rental-car store after employees reported that Ware had become threatening and disruptive when refused an extension of a rental agreement because he was not an authorized driver. Officers observed bulges and plastic baggies protruding from Ware's clothing, and dispatch reported that the name and Social Security number he provided belonged to a deceased person. Ware was arrested, and officers found a scale and suspected drugs on his person; a black bag associated with C'Asia Jackson contained marijuana and a handgun, and a later hotel-room search yielded additional drugs.

PROCEDURAL HISTORY

Ware was indicted in two related Richland County cases arising from a disturbance at an Enterprise rental-car store and a subsequent hotel-room search. The trial court denied his motion to suppress, proceeded to a bench trial after Ware waived counsel and elected to represent himself with standby counsel, granted a Crim.R. 29

motion in part, convicted him on the remaining counts, and imposed consecutive sentences. The Fifth District affirmed.

DISPOSITION

affirmed

CASES CITED

- Strickland v. Washington, 466 U.S. 668, 687-688, 694, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984)
- State v. Bradley, 42 Ohio St.3d 136, 538 N.E.2d 373 (1989)
- State v. Quinones, 2014-Ohio-5544, ¶ 18 (Ohio Ct. App. 8th Dist.)
- State v. Williams, 99 Ohio St.3d 493, 2003-Ohio-4396, 794 N.E.2d 27, ¶ 127
- Katz v. United States, 389 U.S. 347, 357 (1967)
- Terry v. Ohio, 392 U.S. 1 (1968)
- United States v. Brignoni-Ponce, 422 U.S. 873, 878 (1975)
- United States v. Sokolow, 490 U.S. 1, 7 (1989)
- State v. Chatton, 11 Ohio St.3d 59, 61, 463 N.E.2d 1237 (1984)
- State v. Andrews, 57 Ohio St.3d 86, 87-88, 565 N.E.2d 1271 (1991)
- State v. Bobo, 37 Ohio St.3d 177, 178, 524 N.E.2d 489 (1988)
- State v. Millerton, 2015-Ohio-34, 26 N.E.3d 317, ¶ 23 (Ohio Ct. App. 2d Dist.)
- State v. Wortham, 145 Ohio App.3d 126, 761 N.E.2d 1151 (2001)
- State v. Harrison, 2013-Ohio-1235 (Ohio Ct. App. 2d Dist.)
- State v. Householder, 2022-Ohio-1542, ¶ 6 (Ohio Ct. App. 5th Dist.)
- State v. Wolfe, 2020-Ohio-5501 (Ohio Ct. App. 5th Dist.)
- State v. Ferguson, 2020-Ohio-4153 (Ohio Ct. App. 2d Dist.)
- State v. Hacker, 2020-Ohio-5048 (Ohio Ct. App. 3d Dist.)
- State v. Maddox, 2022-Ohio-1350 (Ohio Ct. App. 6th Dist.)
- State v. Guyton, 2020-Ohio-3837 (Ohio Ct. App. 12th Dist.)
- State v. Delvallie, 2022-Ohio-470 (Ohio Ct. App. 8th Dist.)
- State v. Hodgkin, 2021-Ohio-1353 (Ohio Ct. App. 12th Dist.)