

COURT OF APPEALS OF OHIO, SECOND APPELLATE DISTRICT,
MONTGOMERY COUNTY

State v. Dillard

2026-Ohio-1475 · No. 30634 · Decided April 24, 2026

SUMMARY

The Ohio Second District Court of Appeals affirmed Daryl Anderson Dillard’s convictions and sentence following his guilty pleas to aggravated vehicular homicide, aggravated vehicular assault, vandalism, and OVI. The court rejected his ineffective-assistance claim based on counsel’s alleged failure to advise him to plead no contest, concluding that the record did not establish the State would have accepted such pleas on the same terms or what advice counsel provided.

CASE DETAILS

COURT	Court of Appeals of Ohio, Second Appellate District, Montgomery County
WRITING FOR THE COURT	Robert G. Hanseman, J.; Lewis, P.J.; Tucker, J.
JURISDICTION	Ohio Court of Appeals, Second Appellate District, Montgomery County
DECIDED	April 24, 2026
DOCKET	30634
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from convictions and sentence following guilty pleas. Dillard raised a single assignment of error alleging ineffective assistance of trial counsel for permitting him to plead guilty rather than no contest, thereby allegedly waiving appellate review of the denial of his suppression motion.
STANDARD OF REVIEW	Ineffective-assistance claims are reviewed under the two-prong Strickland framework, requiring deficient performance and resulting prejudice. On direct appeal, the reviewing court will not resolve ineffective-assistance claims dependent on facts outside the record.
PRECEDENTIAL VALUE	Published
PARTIES	Daryl Anderson Dillard v. State of Ohio

TOPICS

ineffective assistance

plea bargaining

post-conviction relief

suppression of evidence

appellate procedure

PRACTICE AREAS

criminal procedure

post-conviction relief

appellate procedure

QUESTIONS PRESENTED

1. Whether trial counsel provided ineffective assistance by permitting Dillard to plead guilty rather than no contest, allegedly waiving his ability to appeal the denial of his suppression motion.
2. Whether an ineffective-assistance claim may succeed on direct appeal when the record does not show what advice counsel gave regarding guilty versus no-contest pleas.

HOLDINGS

1. An ineffective-assistance claim based on counsel permitting a defendant to plead guilty instead of no contest fails where the defendant does not establish that the State would have accepted no-contest pleas on the same terms as the guilty-plea agreement.
2. Alleged off-the-record advice or conversations between counsel and the defendant cannot support an ineffective-assistance claim on direct appeal when the record does not reveal what counsel advised; such allegations are properly pursued through post-conviction relief.

KEY QUOTATIONS

“To demonstrate that counsel was ineffective in permitting a defendant to plead guilty, as opposed to no contest, the defendant must establish that: the State would have agreed to a no-contest plea on the same terms; counsel failed to advise the defendant that a no-contest plea, unlike a guilty plea, would preserve the pretrial issue for appeal; and had defendant been so advised, the defendant would have rejected the plea offer.” (¶ 10)

“off-the-record events or conversations will not support an ineffective-assistance claim on direct appeal.” (¶ 12)

“the appropriate remedy for allegations of ineffective assistance of counsel is through a petition for post-conviction relief when the allegations require the consideration of facts not appearing in the record.” (¶ 12)

FACTUAL BACKGROUND

Dillard struck two individuals, two vehicles, and a guard shack while attempting to leave a hospital parking lot while intoxicated. He was indicted on twelve counts, including aggravated vehicular homicide, aggravated vehicular assault, involuntary manslaughter, vandalism, OVI, and related offenses. After the denial of his suppression motion, he entered guilty pleas to four offenses under an agreement dismissing eight counts and recommending a twelve-to-nineteen-year sentencing range.

PROCEDURAL HISTORY

A Montgomery County grand jury indicted Dillard on twelve counts arising from an intoxicated-driving incident. After the trial court denied his motion to suppress blood-draw evidence and statements, Dillard pleaded guilty to aggravated vehicular homicide, aggravated vehicular assault, vandalism, and one count of OVI in exchange for dismissal of eight counts and a sentencing recommendation. The trial court imposed an aggregate minimum sentence of nineteen years to a maximum of twenty-four and one-half years, and the Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- Strickland v. Washington, 466 U.S. 668 (1984)
- State v. Bradley, 42 Ohio St.3d 136 (1989)
- State v. Hale, 2008-Ohio-3426, ¶ 204
- State v. Frazier, 2016-Ohio-727, ¶ 81-82
- State v. Webb, 2015-Ohio-553, ¶ 15 (2d Dist.)
- State v. Walters, 2024-Ohio-4607, ¶ 18 (2d Dist.)
- State v. Barron, 2018-Ohio-1221, ¶ 5 (2d Dist.)
- State v. McGlown, 2013-Ohio-2762, ¶ 17 (2d Dist.)
- State v. Brooks, 2025-Ohio-3292, ¶ 11
- State v. Lenoir, 2025-Ohio-563, ¶ 25 (2d Dist.)
- State v. Bakos, 2025-Ohio-1272, ¶ 11 (2d Dist.)
- State v. King, 2024-Ohio-4705, ¶ 10 (2d Dist.)
- State v. McElrath, 2024-Ohio-2475, ¶ 21 (2d Dist.)
- State v. Brown, 2025-Ohio-4874, ¶ 9 (2d Dist.)
- State v. Hoskins, 1998 WL 32565, *2 (2d Dist. Jan. 30, 1998)
- State v. Booker, 63 Ohio App.3d 459 (2d Dist. 1989)
- State v. West, 2022-Ohio-1611, ¶ 34 (2d Dist.)
- State v. Lindsey, 2019-Ohio-1550, ¶ 17 (2d Dist.)