

COURT OF APPEALS OF OHIO, EIGHTH APPELLATE DISTRICT,
CUYAHOGA COUNTY

State v. Silver

2025-Ohio-5509 (8th Dist.) · No. No. 114499 · Decided December 9, 2025

SUMMARY

The Eighth District Court of Appeals of Ohio denied Terrell Silver’s application under Ohio Appellate Rule 26(B) to reopen his prior appeal. The court held that Silver failed to identify assignments of error as required and that his claims concerning capital-case procedures were baseless because the indictment did not include capital specifications under Ohio Revised Code 2929.04(A).

CASE DETAILS

COURT	Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County
WRITING FOR THE COURT	Sean C. Gallagher, J.; Michelle J. Sheehan, P.J.; Kathleen Ann Keough, J.
JURISDICTION	Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County
DECIDED	December 9, 2025
DOCKET	No. 114499
DISPOSITION	other
PROCEDURAL POSTURE	Defendant applied under Ohio Appellate Rule 26(B) to reopen the appellate judgment affirming his criminal convictions, alleging ineffective assistance of appellate counsel.
STANDARD OF REVIEW	An App.R. 26(B) applicant must demonstrate deficient performance by appellate counsel and resulting prejudice under Strickland v. Washington. The application must also identify one or more assignments of error not raised in the original appeal under App.R. 26(B)(2)(c).
PRECEDENTIAL VALUE	Published opinion
PARTIES	Terrell Silver v. State of Ohio

TOPICS

- appellate procedure
- ineffective assistance
- criminal procedure
- post-conviction relief
- sentencing

PRACTICE AREAS

criminal procedure

appellate procedure

post-conviction relief

ineffective assistance

QUESTIONS PRESENTED

1. Whether Silver satisfied App.R. 26(B)(2)(c) by identifying one or more assignments of error that appellate counsel failed to raise in the original appeal.
2. Whether appellate counsel was ineffective for failing to argue that Silver's aggravated-murder prosecution was a capital case requiring capital venire, jury-instruction, and sentencing procedures.
3. Whether the absence of capital specifications under R.C. 2929.04(A) meant that Silver's case was not a capital case.

HOLDINGS

1. An App.R. 26(B) application may be denied when the applicant fails to identify any assignment of error that was not raised in the original appeal.
2. Appellate counsel was not ineffective for declining to raise claims that a capital-case venire, sentencing instructions, and jury sentencing were required when the indictment did not contain the capital specifications required by R.C. 2929.04(A).

FACTUAL BACKGROUND

Evidence at trial showed that Silver murdered four individuals and the unborn child of one of them in an abandoned house. He was indicted on numerous aggravated-murder and other charges, but the indictments did not include the capital specifications required under R.C. 2929.04(A). The trial court imposed an aggregate sentence of 30.5 years consecutive to five consecutive life sentences without parole. On appeal, counsel raised sufficiency, manifest-weight, hearsay, ineffective-assistance-of-trial-counsel, and evidentiary issues, but did not argue that capital-case procedures were required.

PROCEDURAL HISTORY

Silver was convicted in the Cuyahoga County Court of Common Pleas of multiple aggravated-murder and other offenses and received an aggregate sentence of 30.5 years consecutive to five consecutive life sentences without parole. The Eighth District affirmed his convictions in *State v. Silver*, 2025-Ohio-2771 (8th Dist.). Silver then filed an App.R. 26(B) application alleging that appellate counsel should have argued that capital-case procedures were required and had not been followed. The State opposed the application, and the court denied reopening.

DISPOSITION

other

CASES CITED

- *State v. Silver*, 2025-Ohio-2771 (8th Dist.)
- *Strickland v. Washington*, 466 U.S. 668 (1984)

- State v. Bradley, 42 Ohio St.3d 136 (1989)
- State v. Reed, 1996-Ohio-21
- State v. Bonneau, 2013-Ohio-696 (8th Dist.)

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