

OHIO FIRST DISTRICT COURT OF APPEALS

State v. Desmarais

2025-Ohio-5541 · No. C-250198 · Decided December 11, 2025

SUMMARY

The Ohio First District Court of Appeals held that a traffic citation generally charging a violation of R.C. 4511.19(A)(1)(j), supplemented by a bill of particulars, sufficiently invoked the municipal court's jurisdiction. The court determined that the trial court's reference to R.C. 4511.19(A)(1)(j)(II) was a clerical error and remanded for a nunc pro tunc entry identifying the conviction as R.C. 4511.19(A)(1)(j)(viii)(II). The court affirmed the OVI controlled-substance conviction, dismissed the portion of the appeal concerning reasonable control, and remanded the matter.

CASE DETAILS

COURT	Ohio First District Court of Appeals
WRITING FOR THE COURT	Kinsley, Presiding Judge; Zayas, Judge; Crouse, Judge
JURISDICTION	Ohio First District Court of Appeals, Hamilton County
DECIDED	December 11, 2025
DOCKET	C-250198
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed his convictions from the Hamilton County Municipal Court, challenging the sufficiency of the OVI controlled-substance charging instrument, the statutory subsection identified in the judgment entry, and the sufficiency of the evidence.
STANDARD OF REVIEW	Jurisdictional questions are reviewed de novo. Sufficiency of the evidence is reviewed by asking whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements proven beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published Ohio First District Court of Appeals opinion
PARTIES	Michael Desmarais v. State of Ohio

TOPICS

- criminal procedure
- statutory interpretation
- evidence
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

appellate law

evidence

QUESTIONS PRESENTED

1. Whether a traffic citation generally charging a violation of R.C. 4511.19(A)(1)(j), without identifying a specific subdivision, was sufficient to invoke the municipal court's subject-matter jurisdiction.
2. Whether the municipal court convicted Desmarais of an uncharged cocaine offense by referring in its handwritten judgment entry to R.C. 4511.19(A)(1)(j)(II), rather than the marijuana-metabolite subdivision.
3. Whether sufficient evidence supported Desmarais's conviction under R.C. 4511.19(A)(1)(j)(viii)(II).
4. Whether the portion of the appeal challenging the uncontested reasonable-control conviction should be dismissed.

HOLDINGS

1. A misdemeanor complaint generally citing R.C. 4511.19(A)(1)(j) is not defective and does not deprive a municipal court of subject-matter jurisdiction when the defendant received notice of the alleged violation through the charging instrument and a bill of particulars and was not prejudiced by the absence of a specific statutory subdivision.
2. The municipal court did not convict Desmarais of the cocaine offense identified by the erroneous handwritten reference to R.C. 4511.19(A)(1)(j)(ii); the reference was a clerical error, and the record must be corrected nunc pro tunc to reflect conviction under R.C. 4511.19(A)(1)(j)(viii)(II).
3. Sufficient evidence supported Desmarais's conviction under R.C. 4511.19(A)(1)(j)(viii)(II) because the stipulated toxicology report established that his urine contained more than the statutory threshold of marijuana metabolite.

KEY QUOTATIONS

“The absence of a specific subsection in a complaint is permissible where the factual allegations make the violation clear.” (¶ 14)

“To assess whether a conviction is supported by sufficient evidence, we ask “whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt.”” (¶ 20)

FACTUAL BACKGROUND

After a March 28, 2023 traffic accident, Desmarais attempted to drive away from a nearby parking lot and nearly struck a light pole while backing into a parking spot. An officer detected an odor of alcohol, administered field-sobriety tests, formed the opinion that Desmarais was under the influence of alcohol or a drug, and arrested him. A urine test showed amphetamine and marijuana metabolite, and Desmarais stipulated to the toxicology report, which showed 726 nanograms of marijuana metabolite per milliliter of urine.

PROCEDURAL HISTORY

Desmarais was charged with operating a vehicle while impaired, operating a vehicle with a prohibited concentration of a controlled substance, and operating a vehicle without reasonable control. After denying a suppression motion, the municipal court acquitted him of OVI impaired but convicted him of the controlled-substance and reasonable-control offenses. The appellate court dismissed the portion of the appeal concerning reasonable control, affirmed the controlled-substance conviction, and remanded for a nunc pro tunc entry correcting the statutory subsection in the judgment entry.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Hamilton County Municipal Court must enter a nunc pro tunc entry in case number 23/TRC/8578/B reflecting that Desmarais was convicted under R.C. 4511.19(A)(1)(j)(viii)(II). The reasonable-control portion of the appeal is dismissed; the controlled-substance conviction is affirmed, subject to correction of the clerical error.

CASES CITED

- State v. McClanahan, 2021-Ohio-2652, ¶ 6 (1st Dist.)
- State v. John DOD, 2024-Ohio-4807, ¶ 8 (1st Dist.)
- State v. Finch, 2013-Ohio-1862, ¶ 11 (1st Dist.)
- State v. Swazey, 2023-Ohio-4627, ¶ 23
- State v. Bell, 2023-Ohio-2073, ¶ 8
- Dikong v. Ohio Supports Inc., 2013-Ohio-33, ¶ 9 (1st Dist.)
- State v. Jones, 2013-Ohio-4775, ¶ 15 (1st Dist.)
- Animal Control v. Keller, 2023-Ohio-3995, ¶ 12 (2d Dist.)
- State v. Stefanopoulos, 2012-Ohio-4220, ¶ 21 (12th Dist.)
- State v. Jackson, 2012-Ohio-5561, ¶ 15
- State v. Dickey, 2025-Ohio-4397, ¶ 35 (1st Dist.)
- State v. Jenks, 61 Ohio St.3d 259 (1991), paragraph two of the syllabus
- State v. Messenger, 2022-Ohio-4562, ¶ 26
- State v. Thompkins, 78 Ohio St.3d 380, 390 (1997) (Cook, J., concurring)