

OHIO COURT OF APPEALS, SECOND APPELLATE DISTRICT,
MONTGOMERY COUNTY

State v. Petaway

2026-Ohio-1479 · No. C.A. No. 30424 · Decided April 24, 2026

SUMMARY

The Ohio Second District Court of Appeals affirmed Mashhud Petaway’s convictions and sentence for felonious assault with firearm specifications. The court rejected challenges to the reliability of a pretrial photographic identification and to the admission of firearms-related evidence. The opinion addresses the suppression motion and evidentiary rulings arising from the shooting of the victim.

CASE DETAILS

COURT	Ohio Court of Appeals, Second Appellate District, Montgomery County
WRITING FOR THE COURT	Ronald C. Lewis; Ronald C. Lewis, Presiding Judge; Tucker, J.; Huffman, J.
JURISDICTION	Ohio Court of Appeals, Second Appellate District, Montgomery County
DECIDED	April 24, 2026
DOCKET	C.A. No. 30424
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petaway appealed his jury convictions and sentence from the Montgomery County Common Pleas Court, challenging the denial of suppression, evidentiary rulings, limits on cross-examination, the sufficiency and weight of the evidence, cumulative error, the constitutionality of the Reagan Tokes Law, and consecutive firearm-specification sentences.
STANDARD OF REVIEW	Suppression rulings concerning pretrial identification: abuse of discretion. Evidentiary rulings and limits on cross-examination: abuse of discretion, with reversal requiring clear and prejudicial error. Sufficiency of the evidence: whether, viewing the evidence most favorably to the State, any rational factfinder could find the essential elements beyond a reasonable doubt. Manifest weight: review of the entire record, with reversal only in the exceptional case where the jury clearly lost its way and created a manifest miscarriage of justice.

	Felony sentences: R.C. 2953.08(G)'s clear-and-convincing-evidence standard.
PRECEDENTIAL VALUE	Published and precedential Ohio Court of Appeals decision
PARTIES	Mashhud Petaway v. State of Ohio

TOPICS

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QUESTIONS PRESENTED

1. Whether the photospread identification procedure was unnecessarily suggestive and unreliable under the totality of the circumstances.
2. Whether the trial court abused its discretion by admitting testimony from Officer Applegate, ammunition and extended magazines found at Petaway's home, and photographs of Petaway holding firearms.
3. Whether the trial court improperly limited cross-examination concerning D.L.'s alleged mental-health problems and an alleged prior inconsistent statement.
4. Whether the evidence was legally sufficient to support the felonious-assault conviction and whether the conviction was against the manifest weight of the evidence.
5. Whether cumulative trial errors deprived Petaway of a fair trial.
6. Whether the Reagan Tokes Law is unconstitutional or contrary to law.
7. Whether imposing consecutive sentences for two firearm specifications, including one attached to a merged offense, was contrary to statutory or constitutional law.

HOLDINGS

1. The trial court did not abuse its discretion in denying suppression of D.L.'s photospread identification because the computerized six-person photospread was not unduly suggestive.
2. The trial court did not abuse its discretion in admitting Officer Applegate's testimony, the ammunition and magazines, or the photographs of Petaway holding firearms.
3. The trial court did not abuse its discretion by limiting defense counsel's questioning about D.L.'s alleged mental-health problems.
4. The evidence was sufficient to support Petaway's felonious-assault conviction and the conviction was not against the manifest weight of the evidence.
5. There were no cumulative errors warranting reversal because Petaway failed to establish prejudicial individual errors or deprivation of a fair trial.

6. Petaway's Reagan Tokes sentence was not unconstitutional or contrary to law; the Ohio Supreme Court's decision in *State v. Hacker* foreclosed his separation-of-powers and due-process arguments.
7. The imposition of consecutive three-year terms for the two firearm specifications was not contrary to law, even though the underlying felonious-assault counts merged at sentencing.

KEY QUOTATIONS

“When a witness has been confronted with a suspect before trial, due process requires a court to suppress the witness’s identification of the suspect if the confrontation was unnecessarily suggestive of the suspect’s guilt and the identification was unreliable under the totality of the circumstances.” (¶ 32)

“Reliability of the pretrial identification is the “linchpin” in determining the admissibility of such evidence.” (¶ 33)

“A sufficiency of the evidence argument disputes whether the State has presented adequate evidence on each element of the offense to allow the case to go to the jury or sustain the verdict as a matter of law.” (¶ 87)

“Under the cumulative error doctrine, “a conviction will be reversed when the cumulative effect of errors in a trial deprives a defendant of a fair trial even though each of the numerous instances of trial-court error does not individually constitute cause for reversal.”” (¶ 97)

FACTUAL BACKGROUND

The victim, D.L., knew Petaway before the shooting and testified that Petaway approached him in daylight with two black semiautomatic handguns and shot him repeatedly. D.L. suffered extensive gunshot injuries, including organ damage, fractures, and the loss of a kidney, and immediately identified the shooter by Petaway's nickname before later identifying Petaway from a photospread and at trial. Police recovered nine-millimeter casings at the scene and found matching-brand nine-millimeter ammunition, magazines, firearm boxes, and a cleaning kit at Petaway's home; photographs on Petaway's phone showed him holding firearms shortly before or around the time of the shooting. No firearm recovered from Petaway's wife was determined to be the weapon used in the shooting.

PROCEDURAL HISTORY

A Montgomery County grand jury indicted Petaway on two counts of felonious assault, each with a three-year firearm specification. The trial court denied his motion to suppress, found the victim competent, ruled on the parties' motions in limine, and conducted a jury trial. The jury found Petaway guilty as charged; the court merged the felonious-assault offenses for sentencing, imposed an indefinite eight-to-twelve-year sentence for the underlying offense, and imposed two consecutive three-year firearm-specification terms. The court of appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Beckham, 2003-Ohio-3837, ¶ 10 (2d Dist.)
- State v. Murphy, 91 Ohio St. 3d 516, 534 (2001)
- State v. Adams, 2015-Ohio-3954, ¶¶ 208-209
- Wilson v. Mitchell, 250 F.3d 388, 397 (6th Cir. 2001)
- State v. Harmon, 2017-Ohio-8106, ¶ 19 (2d Dist.)
- State v. Williams, 2015-Ohio-1403, ¶ 13 (2d Dist.)
- State v. Broom, 40 Ohio St. 3d 277, 284 (1988)
- Manson v. Brathwaite, 432 U.S. 98, 114 (1977)
- State v. Parrish, 2006-Ohio-4161, ¶ 18 (2d Dist.)
- State v. Carter, 2006-Ohio-2823, ¶ 34 (2d Dist.)
- State v. Davis, 76 Ohio St. 3d 107, 112 (1996)
- State v. Sage, 31 Ohio St. 3d 173, 180 (1987)
- State v. Johnson, 2015-Ohio-4903, ¶ 53
- State v. Noling, 2002-Ohio-7044, ¶ 43
- State v. Sutherland, 2021-Ohio-2433, ¶¶ 24, 29 (2d Dist.)
- United States v. Meester, 762 F.2d 867, 875 (11th Cir. 1985)
- United States v. McRae, 593 F.2d 700, 707 (5th Cir. 1979)
- State v. Wright, 48 Ohio St. 3d 5, 8 (1990)
- Oberlin v. Akron Gen. Med. Ctr., 91 Ohio St. 3d 169, 172 (2001)
- State v. Hatfield, 2022-Ohio-148, ¶ 89
- State v. Lakes, 2007-Ohio-325, ¶ 20 (2d Dist.)
- State v. McKenzie, 1980 WL 351509, *2 (6th Dist. Sept. 5, 1980)
- State v. Drummond, 2006-Ohio-5084, ¶ 84
- State v. Harris, 2015-Ohio-166, ¶ 37
- State v. Morris, 2014-Ohio-5052, ¶¶ 25, 27-29, 33
- State v. Green, 66 Ohio St. 3d 141, 147 (1993)
- Alford v. United States, 282 U.S. 687, 691, 694 (1931)
- State v. Hancock, 2006-Ohio-160, ¶ 122
- O'Brien v. Anglely, 63 Ohio St. 2d 159, 163 (1980)
- State v. Harrison, 2022-Ohio-4627, ¶ 21 (2d Dist.)
- State v. Young, 2021-Ohio-2541, ¶ 56 (12th Dist.)
- State v. Hill, 2004-Ohio-2048, ¶ 36 (2d Dist.)
- State v. Keith, 79 Ohio St. 3d 514, 525 (1997)
- State v. Richardson, 2016-Ohio-8081, ¶ 51 (2d Dist.)
- State v. Robinson, 2015-Ohio-8081, ¶ 28 (2d Dist.)
- State v. Pierce, 2011-Ohio-4873, ¶ 82 (2d Dist.)
- State v. Mack, 73 Ohio St. 3d 502, 514-515 (1995)

- State v. Bickerstaff, 2015-Ohio-4014, ¶ 25 (11th Dist.)
- State v. Wilson, 8 Ohio App. 3d 216, 221 (8th Dist. 1982)
- State v. Hemming, 2021-Ohio-971, ¶ 43 (2d Dist.)
- State v. Teater, 2019-Ohio-143, ¶ 15 (2d Dist.)
- State v. Long, 53 Ohio St. 2d 91, paragraphs two and three of the syllabus (1978)
- State v. McGhee, 2006-Ohio-5979, ¶ 16 (2d Dist.)
- State v. Brown, 1998 WL 487039 (9th Dist. Aug. 19, 1998)
- State v. Wilson, 2009-Ohio-525, ¶ 10 (2d Dist.)
- State v. Thompson, 78 Ohio St. 3d 380, 387 (1997)
- State v. Dennis, 79 Ohio St. 3d 421, 430 (1997)
- Jackson v. Virginia, 443 U.S. 307, 319 (1979)
- State v. Jenks, 61 Ohio St. 3d 259, paragraph two of the syllabus (1991)
- State v. Strong, 2011-Ohio-1024, ¶ 42 (10th Dist.)
- State v. Martin, 20 Ohio App. 3d 172, 175 (1st Dist. 1983)
- State v. Weller, 2024-Ohio-2554, ¶ 10 (2d Dist.)
- State v. Dewberry, 2020-Ohio-691, ¶ 44 (2d Dist.)
- State v. Awan, 22 Ohio St. 3d 120, 123 (1986)
- Seasons Coal Co. v. Cleveland, 10 Ohio St. 3d 77 (1984)
- Henkle v. Salem Mfg. Co., 39 Ohio St. 547 (1883)
- State v. Jackson, 2009-Ohio-6407, ¶ 16 (7th Dist.)
- State v. Powell, 2012-Ohio-2577, ¶ 223
- State v. DeMarco, 31 Ohio St. 3d 191, 196-197 (1987)
- State v. Hill, 75 Ohio St. 3d 195, 212 (1996)
- State v. Davis, 62 Ohio St. 3d 326, 348 (1991)
- State v. Jinks, 2022-Ohio-282, ¶ 12 (2d Dist.)
- State v. Hacker, 2023-Ohio-2535
- State v. Williams, 2022-Ohio-2897, ¶ 18 (2d Dist.)
- State v. Farra, 2022-Ohio-1421, ¶ 73 (2d Dist.)
- State v. Worthen, 2021-Ohio-2788, ¶ 13 (2d Dist.)
- State v. Huffman, 2017-Ohio-4097, ¶ 6 (2d Dist.)
- Cross v. Ledford, 161 Ohio St. 469, 477 (1954)
- State v. Bollar, 2022-Ohio-4370
- State v. Smith, 2025-Ohio-679, ¶ 77 (2d Dist.)
- Cooke v. Montgomery County, 2004-Ohio-3780, ¶ 39 (2d Dist.)