

COURT OF APPEALS OF OHIO, THIRD APPELLATE DISTRICT, PAULDING
COUNTY

State v. Baker

2025-Ohio-5463 · No. 11-25-02 · Decided December 8, 2025

SUMMARY

The Ohio Third District Court of Appeals affirmed Newlyn W. Baker’s conviction and six-year mandatory prison sentence for second-degree-felony possession of marihuana. Baker challenged the exclusion of expert testimony concerning the weighing of marijuana and possible hemp content, the denial of acquittal, jury deliberation procedures, alleged juror misconduct, and the manifest weight of the evidence. The court concluded that State v. Wolpe remained controlling and rejected Baker’s claims.

CASE DETAILS

COURT	Court of Appeals of Ohio, Third Appellate District, Paulding County
WRITING FOR THE COURT	Juergen A. Waldick, P.J.; Mark C. Miller, J.; John R. Willamowski, J.
JURISDICTION	Ohio Court of Appeals, Third Appellate District, Paulding County
DECIDED	December 8, 2025
DOCKET	11-25-02
DISPOSITION	affirmed
PROCEDURAL POSTURE	Baker appealed his jury conviction and six-year mandatory prison sentence for second-degree-felony possession of marihuana. He challenged the exclusion of defense evidence concerning the weighing and testing of plant material, the trial court’s handling of the jury’s request to view admitted exhibits, the sufficiency and manifest weight of the evidence, and the denial of a new trial based on alleged juror misconduct.
STANDARD OF REVIEW	The court reviewed expert-evidence rulings and the denial of a motion for a new trial for abuse of discretion; sufficiency of the evidence under whether, viewing the evidence most favorably to the prosecution, any rational trier of fact could find the elements proven beyond a reasonable doubt; manifest weight under an independent review of the entire record while giving appropriate deference to the factfinder; and the unobjected-to jury-exhibit ruling for plain error.

PRECEDENTIAL VALUE	published
PARTIES	Newlyn W. Baker v. State of Ohio

TOPICS

criminal procedure evidence statutory interpretation appellate procedure constitutional law

PRACTICE AREAS

criminal law criminal procedure evidence appellate law statutory interpretation constitutional law

QUESTIONS PRESENTED

1. Whether the trial court improperly excluded defense expert testimony and argument that portions of the seized plant material might qualify as hemp and therefore should have been excluded from the marijuana weight.
2. Whether the State violated due process by failing to preserve the composite sample consumed during BCI's chemical analysis.
3. Whether the trial court abused its discretion or committed plain error by allowing the jury to view, but not initially open or handle, admitted bags of plant material during deliberations.
4. Whether sufficient evidence established that Baker knowingly possessed at least 20,000 grams of marijuana.
5. Whether the possession conviction was against the manifest weight of the evidence.
6. Whether the trial court abused its discretion by denying a new trial based on alleged juror nondisclosure and misconduct.

HOLDINGS

1. Under State v. Wolpe, statutory exclusions from the definition of marijuana, including hemp, do not require the State to separate excluded material from a mixture of plant material before determining the weight of marijuana when the material was not already separated into solely excludable and includable components. The trial court therefore properly excluded the defense hemp theory and related expert testimony.
2. The trial court did not abuse its discretion by excluding Frank Telewski's expert testimony concerning the leaf-to-stem ratio and possible hemp content because the proposed testimony was not relevant to the legally proper weight determination.
3. The State did not violate due process by failing to preserve the composite sample consumed during chemical testing because the sample was not materially exculpatory or constitutionally required-to-be-preserved potentially useful evidence, and more than 20,000 grams of plant material remained available for independent testing.
4. The trial court did not abuse its discretion or commit plain error by permitting the jury to view the sealed bags of admitted plant material in the courtroom in the presence of a law-enforcement officer rather than

immediately opening the bags for examination.

5. The evidence was sufficient to support Baker's conviction for knowingly possessing at least 20,000 grams of marijuana.
6. The conviction was not against the manifest weight of the evidence because the jury did not clearly lose its way in rejecting the defense theory that another person grew the marijuana without Baker's knowledge.
7. The trial court properly denied a new trial because the record did not establish that Juror No. 1 deliberately failed to disclose material information or was actually biased, and Baker failed to demonstrate prejudice.

KEY QUOTATIONS

"Thus, based on Wolpe, the State of Ohio had no burden to separate from the overall quantity of the plant material at issue any material that is statutorily excluded from the definition of "marihuana", including "hemp"." (§ 48)

"On those facts, and in light of the relevant case law of the United States Supreme Court cited above, we conclude that the composite sample of the plant material that was by necessity consumed during the chemical analysis performed in this case did not constitute materially exculpatory or potentially useful evidence that was required to be preserved by the State of Ohio." (§ 61)

"Upon considering all of that rather open and obvious evidence of a large marijuana cultivation operation on the premises, a trier of fact could reasonably conclude that Baker was conscious of the presence of the marijuana on his property and that, as the owner and occupant of the premises, he exercised dominion and control over the marijuana." (§ 89)

FACTUAL BACKGROUND

After receiving an anonymous tip, law-enforcement officers conducted an aerial observation of Baker's property and saw marijuana plants in an enclosure behind his residence. Officers executed a search warrant and seized eleven very large plants, along with gardening tools, fertilizer, water tanks, grow lights, and other cultivation materials. BCI weighed the plant material submitted in nine bags at 20,166.8 grams and chemically analyzed a composite sample, determining that it was marijuana with a THC concentration of 2.57 percent, plus or minus .95 percent, on a dry-weight basis. Baker owned and occupied the property, while the defense presented testimony suggesting that another person may have planted or tended the plants.

PROCEDURAL HISTORY

A Paulding County grand jury indicted Baker on charges of illegal cultivation and possession of marihuana. After extensive pretrial litigation concerning inspection, testing, weighing, and admissibility of evidence, the case proceeded to a jury trial. The jury acquitted Baker of cultivation but convicted him of possession. The trial court denied post-trial motions, imposed a mandatory six-year prison term, and entered judgment. The court of appeals affirmed, remanding only for execution of the judgment for appellate costs.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The cause was remanded to the trial court solely for execution of the judgment for appellate costs and issuance of the mandate under App.R. 27 and service under App.R. 30.

CASES CITED

- State v. Wolpe, 11 Ohio St.3d 50 (1984)
- Valentine v. Conrad, 2006-Ohio-3561
- Miller v. Bike Athletic Co., 80 Ohio St.3d 607 (1998)
- State v. Adams, 62 Ohio St.2d 151 (1980)
- State v. Nemeth, 82 Ohio St.3d 202 (1998)
- California v. Trombetta, 467 U.S. 479 (1984)
- Arizona v. Youngblood, 488 U.S. 51 (1988)
- State v. Fellows, 47 Ohio App.2d 154 (3d Dist. 1975)
- State v. McGuire, 80 Ohio St.3d 390 (1997)
- State v. Clark, 38 Ohio St.3d 252 (1988)
- State v. Carey, 2007-Ohio-3073
- State v. Bethel, 2006-Ohio-4853
- State v. Jenks, 61 Ohio St.3d 259 (1991)
- State v. Williams, 2024-Ohio-2307
- State v. Jones, 2013-Ohio-4775
- State v. Thompkins, 78 Ohio St.3d 380 (1997)
- State v. Stewart, 2023-Ohio-253
- State v. DeHass, 10 Ohio St.2d 230 (1967)
- State v. Haller, 2012-Ohio-5233
- State v. Bustamante, 2013-Ohio-4975
- State v. Hankerson, 70 Ohio St.2d 87 (1982)
- State v. McClain, 2020-Ohio-1436
- State v. Fisher, 2021-Ohio-3788
- State v. Schiebel, 55 Ohio St.3d 71 (1990)
- Smith v. Phillips, 455 U.S. 209 (1982)
- Irvin v. Dowd, 366 U.S. 717 (1961)
- State v. Froman, State v. Froman, 2020-Ohio-4523
- State v. Glass, 2024-Ohio-4535
- State v. Williams, 79 Ohio St.3d 1 (1997)

- State v. Pryor, 2024-Ohio-3154
- State v. Sealey, 2019-Ohio-3692
- State v. Shockey, 2024-Ohio-296
- State v. Long, 53 Ohio St.2d 91 (1978)
- State v. Peters, 2023-Ohio-4362
- State v. Morgan, 2017-Ohio-7565
- State v. Scott-Hoover, 2004-Ohio-4804

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