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APPENDIX A

IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY

DENNIS G. TILTON,
Plaintiff-Appellant,

-vs- CASE NO. 2025-L-112

STATE OF OHIO,
Defendant-Appellee.

JUDGMENT ENTRY

Appellant, Dennis G. Tilton, filed a timely application for reconsideration, pursuant to App.R. 26(A)(1). He contends this court, in *Tilton v. State,* 2026-Ohio1509 failed to address whether a remand was necessary or required to correct the record. We find no merit in Tilton's application.

App.R.26(A)(1), which provides for the filing of an application for reconsideration in this court, includes no guidelines to be used in the determination of whether a decision is to be reconsidered and changed. *Matthews v. Matthews,* 5 Ohio App.3d 140, 143, (10th Dist. 1981). The test generally applied is whether the motion for reconsideration calls to the attention of the court an obvious error in its decision or raises an issue for our consideration that was either not at all or was not fully considered by us when it should have been.

Id.

An application for reconsideration is not meant for use in instances where a party simply disagrees with the conclusions reached and the logic used by an appellate court. *State v. Owens,* 112 Ohio App.3d 334, 336 (11th Dist. 1996). Rather, App.R. 26(A)(1) provides a mechanism by which a party may prevent miscarriages of justice that could arise when an appellate court makes an obvious error or renders an unsupportable decision under the law. *Id.*

In his current application, Tilton asserts this court "overlooked" the issue of his claim for entitlement to "record correction and remand." He maintains this court's disposition rests upon the premise that a complete record was available. Nevertheless, he maintains that this is not true and this court "did not independently determine whether the record was complete . . ." Tilton asks this court to reconsider its decision and remand the matter for "correction, certification, and transmission of the complete record sufficient to permit meaningful review in a proper forum. . . .

In the underlying matter, this court simply determined the trial court properly concluded it lacked jurisdiction, as a matter of law, to consider Tilton's postconviction filing. *Tilton,* 2026-Ohio-1509 at ¶ 12-15. This court specifically concluded that

> the trial court lacked jurisdiction over the subject matter pursuant to Civ.R. 12(B)(1). As suggested above, a "petition for

> postconviction relief is a collateral civil attack on a criminal conviction." *State v. Peters,* 2019Ohio-4617, ¶ 11 (6th Dist.), citing *State v. Steffen,* 1994-Ohio-111, ¶ 60. Thus, the Ohio Rules of Civil Procedure apply. In light of the statutory and case authority, the trial court could not consider Tilton's petition for postconviction relief.

Tilton at ¶ 14.

Considering this point, it stands to reason that a court must possess authority to address matters before it. The underlying matter was dismissed because R.C. 2953.21 (A)(1)(a) requires a petition for postconviction relief to be filed in that court that imposed sentence." *Id.; see also Tilton* at ¶ 8. The trial court determined it was not the appropriate venue for Tilton's petition.

This court affirmed the trial court's determination that *it* lacked jurisdiction to consider his filing upon which the underlying appeal is based. *id.* at ¶ 12 ("The trial court determined, in light of the statutory language set forth in R.C. 2953.21(A)(1)(a) and the Supreme Court of Ohio's holding in *[State v.] Cowan[,* 2004-Ohio-1583, at syllabus], that it lacked jurisdiction to entertain Tilton's petition. The trial court was correct."). This court therefore concluded that the trial court "could not consider Tilton's petition for post-conviction relief." *Tilton* at ¶14.

A determination of whether a trial court possessed jurisdiction to address a case is reviewed under a de novo standard of review. *State v. Graham,*

2022-Ohio-1140, ¶ 39 (11th Dist.) This court addressed this legal point in the underlying opinion. See *Tilton,* 2026-Ohio-1509 at ¶ 12-14.

If the trial court lacked jurisdiction, and it did, this court has no jurisdiction to review arguments for the first time on appeal. *Longworth v. Sturges,* 4 Ohio St. 690, 697 (1855) (An "appellate court acts entirely as a court of errors . . ."). Because no error could be alleged on appeal (given jurisdictional limitations of the trial court), no obvious error has been directed at this court acid Tilton has failed to raise an issue that was not considered (fully or otherwise.).

Further, even if this court entertained Tilton's notions regarding an incomplete record, the trial court still lacked jurisdiction to consider his postconviction petition, Hence, any additional supplementation would have no bearing at this appeal.

As a court of error, this court only reviews a trial court's decision for such error. We do not sit as a "superseding" or "untethered" trial panel to require the trial court to produce alleged filings in aid of an appeal where the trial court legitimately dismissed the underlying petition for lack of jurisdiction.

Tilton followed a procedural path. His filing was dismissed for lack of jurisdiction. We agreed with the trial court's disposition. As a result, no supplementation to the record would factor into this basic legal determination.

Tilton has failed to meet his burden under App.R.

26(A)(1). Tilton's application for reconsideration is overruled.

In addition, appellant has filed with this court a pro se "Notice of Intent to Seek Federal Review and Request to Suspend or Hold Collection Activity in Abeyance" which contains the caption of an appeal that we fully considered approximately three months ago. In the text of this notice, appellant requests that this court order hold in abeyance collection activity while he seeks "federal review of the related proceedings."

Upon review of the notice, this court will construe it as a motion to suspend collection activity. This court would indicate that when an appeal has been taken from a final judgment of a trial court, the scope of our jurisdiction is limited to reviewing the propriety of that specific determination. Once this court has issued an opinion and a final judgment in an appeal, our jurisdiction over the underlying case is terminated.

Accordingly, since this court presently does not have jurisdiction to consider appellant's motion, the motion is hereby overruled.

Considering the foregoing analysis, we overrule Tilton's application for reconsideration and, to the extent we construe Tilton's "Notice" as a motion seeking relief in this court, that "Notice"/motion is also overruled.

It is so ordered.

/s/
JUDGE EUGENE A. LUCCI

MATT LYNCH, P.J.,
JOHN J. EKLUND, J.,
concur.

APPENDIX B

The Supreme Court of Ohio

State of Ohio, City of Eastlake

v.

Dennis Gail Tilton

Case No. 2026-0197
ENTRY

Upon consideration of the jurisdictional memoranda filed in this case, the court declines to accept jurisdiction of the appeal pursuant to Rule 7.08(B)(4).

(Lake County Court of Appeals; Nos. 2025-L-016 and 2025-L-017)

/s/
Sharon L. Kennedy
Chief Justice

Supreme Court of Ohio Clerk of Court - Filed May 26, 2026 - Case No. 2026-0197
Lake County Clerk of Court stamp, June 12, 2026

APPENDIX C

IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY

DENNIS G. TILTON,
Plaintiff-Appellant,

vs -

STATE OF OHIO,
Defendant-Appellee.

CASE NO. 2025-L-112

Civil Appeal from the Court of Common Pleas

Trial Court No. 2025 CV 001105

OPINION AND JUDGMENT ENTRY

Decided: April 27, 2026
Judgment: Affirmed

Dennis G. Tilton, pro se, 35673 West Island Drive, Eastlake, OH 44095 (Plaintiff-Appellant).

Charles E. Coulson, Lake County Prosecutor, and *Eric J. Foisel,* Assistant Prosecutor, Lake County Administration Building, 105 Main Street, P.O. Box 490, Painesville, OH 44077 (For Defendant-Appellee).

EUGENE A. LUCCI, J.

{¶1} Appellant, Dennis G. Tilton, appeals the judgment of the Lake County Court of Common Pleas dismissing his "Complaint and Intent to File Petition for Post-Conviction Relief," pursuant to Civ.R. 12(B)(3) and (B)(6). Tilton's filing was premised upon R.C. 2953.21, Ohio's postconviction relief statute. The trial court determined it lacked jurisdiction to adjudicate Tilton's assertions. We affirm the trial court's determination.

{¶2} Tilton was originally charged in the Willoughby Municipal Court with operating a vehicle while under the influence of alcohol ("OVI"), a misdemeanor of the first degree, in violation of R.C. 4511.19(A)(1)(a); one count of operating a vehicle while under the influence of alcohol and refusing to provide a breath/blood sample, a misdemeanor of the first degree, in violation of RC. 4511.19(A)(2); and lanes of travel upon roadways, a minor misdemeanor, in violation of R.C. 4511.25(A). Tilton was later charged with one count of resisting arrest, a misdemeanor of the second degree, in violation of R.C. 2921.33(A). Tilton pleaded "not guilty," and the case proceeded to a jury trial. Tilton was found guilty on all charges.

{¶3} At sentencing, the court ordered the two OVI counts to merge for purposes of sentencing. On the surviving OVI charge, the trial court ordered Tilton to serve 180 days in the Lake County Jail, 150 of which were suspended. On the resisting arrest charge, the court ordered Tilton to serve 90 days in the Lake County Jail, 65 of which were suspended. The court

ordered the sentences to run concurrently. Tilton was also placed on a period of community control for 18 months. Moreover, the court ordered restitution to the victim, who testified her insurance covered the damage to her vehicle. The prosecutor represented the victim's deductible was $500 and, as a result, the court awarded restitution in the amount of the victim's deductible. Neither defense counsel nor Tilton contested the restitution order.

{¶4} Tilton appealed to this court. During the pendency of that appeal, Tilton filed voluminous motions. Of note, in a July 2025 omnibus judgment entry, this court overruled, inter alia, Tilton's request to supplement the appellate record with matters outside of the record (including alleged Americans with Disabilities Act ("ADA") materials) and Tilton's request to supplement the record with "complete and unredacted trial exhibits."

{¶5} In his appellate brief in that case, Tilton assigned multiple errors relating to the trial court's alleged violation of his right to due process, alleged prosecutorial misconduct, alleged ineffective assistance of counsel, alleged improper evidentiary admissions committed by the trial court, alleged due process violations by the prosecutor relating to *Brady v. Maryland,* 373 U.S. 83, 87 (1963), the trial court's alleged error in ordering restitution, and the trial court's alleged denial of the ADA. On December 8, 2025, this court unanimously affirmed Tilton's convictions. *State v. Tilton,* 2025-Ohio-5471, (11th Dist.).

{¶6} In *Tilton,* this court determined, as a matter of fact, that Tilton refused medical treatment at the scene. *Id.* at ¶ 8-13. And, as a matter of law, (1) he was not denied due process based upon any alleged redactions of exhibits or video evidence, *id.* at ¶ 24-28; (2) there was no error in admitting the photos of the accident scene, *id.* at ¶ 44-46 and 53-54; (3) the trial court properly managed any claimed medical issues Tilton may have been experiencing at trial, *id.* at ¶ 73-74; (4) neither police nor first responders ignored nor disregarded any arguable medical issues Tilton was purportedly experiencing at the scene, *id.* ¶ 64; (5) the trial court did not err in awarding restitution to the victim, *id.* at ¶ 69-70; (6) there was no error when the trial court accepted the parties' joint stipulation regarding Tilton's prior conviction for OVI, *id.* at ¶ 37-39; and (7) that the record was properly and sufficiently transmitted, particularly after this court intervened to supplement the same with the transcripts of proceedings, *id.* at ¶ 22 and 24-28.

{¶7} Tilton subsequently filed a timely application for reconsideration which this court overruled on January 29, 2026.

{¶8} Meanwhile, on June 19, 2025, in the Lake County Court of Common Pleas, Tilton filed a "Complaint and Intent to file Petition for Post-Conviction Relief under R.C. 2953.21." In the filing, Tilton sought reversal of the convictions stemming from *Tilton* based upon various alleged errors. The State filed a motion to dismiss for failure to state a claim upon which relief could be granted. The trial court granted the motion to dismiss,

underscoring that Ohio's postconviction statute, R.C. 2953.21(A)(1)(a), requires the petition to be filed "in that court that imposed sentence. . . ." The court concluded that "[s]ince this Court did not sentence Tilton, this Court is not the appropriate venue for a postconviction relief petition from him." The trial court accordingly dismissed the petition. Tilton appeals and assigns 16 errors for this court's consideration. We shall list each error at the outset. They provide:

> [1.] Error — NHTSA — Proscribed questioning and coerced speech[.]
>
> [2.] Error — Denial of hospital transport and omission of medical records[.]
>
> [3.] Error — Police failure to preserve evidence[.]
>
> [4.] Error — Failure of the police and defense counsel to investigate and address causation factors[.]
>
> [5.] Error — Failure to recognize and accommodate medical crisis testimony.
>
> [6.] Error — Counsel abandonment and negligence[.]
>
> [7.] Error — Fabricated or unsubstantiated damages[.]
>
> [8.] Error — Unsworn advocate statement and sentencing irregularities[.]

[9.] Error — Improper sentence enhancement and prior-history stipulation[.]

[10.] Error — Excessive bond and constructive denial of access[.]

[11.] Error — Jurisdictional misstatement by the State[.]

[12.] Error — misuse of res judicata[.]

[13.] Error — Misapplication of Civ.R. 12(B)(6) to a statutory postconviction filing[.]

[14.] Error — Disregard of *Brady* obligations[.]

[15.] Error — Ignored record-transmission motions[.]

[16.] Error — Cumulative procedural defects[.]

{¶9} R.C. 2953.21(A)(1)(a) states that a person who meets various criteria, may file a petition for postconviction relief "in the court that imposed sentence." The court that imposed sentence in this matter was the Willoughby Municipal Court. Tilton's filing was therefore not processed in the appropriate court. On this basis alone, we need not address the merits of Tilton's assigned errors.

{¶10} Further, in *State v. Cowan,* 2004-Ohio-1583, the Supreme Court of Ohio explained that "[m]unicipal courts are creatures of statute and have limited jurisdiction[,]" and that neither R.C. 1901.18 nor R.C.

1901.20, which confer civil and criminal jurisdiction to the municipal courts, provides for jurisdiction over postconviction-relief petitions in the municipal courts, emphasizing that "[h]ad the General Assembly envisioned such jurisdiction, it could have explicitly conferred it in R.C. Chapter 1901." *Cowan* at ¶ 11. As a result, the Court concluded "[a] municipal court is without jurisdiction to review a petition for post[c]onviction relief filed pursuant to R.C. 2953.21." *Cowan* at syllabus.

{¶11} The trial court, in dismissing Tilton's petition, correctly emphasized these points. The trial court additionally explained that a municipal-court misdemeanant is not without a postconviction remedy. The trial court, citing this court's decision in *State v. Denihan,* 2016-Ohio-7443 (11th Dist.), recognized that misdemeanants are not without recourse in postconviction matters. Rather, individuals convicted of misdemeanors that have potential claims based upon evidence dehors the record have recourse outside the parameters of R.C. 2953.21. Specifically, this court, in *Denihan,* stated:

> Crim.R. 57(B) provides that "[i]f no procedure is specifically prescribed by rule, the court may proceed in any lawful manner not inconsistent with these rules of criminal procedure, and shall look to the rules of civil procedure and to the applicable law if no rule of criminal procedure exists.
>
> "The criminal rules thus contemplate resort to the civil rules for procedures not

> anticipated by the criminal rules. And Civ.R. 60(B)(5) permits relief from a judgment for 'any . . reason justifying [such] relief.' It follows that [Crim.R. 57(B), through application of Civ.R. 60(B),] may afford a criminal defendant relief from a judgment of conviction." *Miller [v. Walton,* 2005-Ohio-4855, ¶ 17 (1st Dist.)], citing *State v. Harrison,* . . . 2005-Ohio-4212, ¶ 10-12 [11th Dist.] (citation omitted). . . . Pursuant to Civ.R. 60(B), municipal courts may entertain motions to vacate their own judgments in criminal cases. An individual convicted in municipal court and seeking relief on the ground of ineffective assistance of counsel with evidence outside the record may therefore pursue relief from the misdemeanor conviction through a Civ.R. 60(B) motion to vacate.

Denihan at ¶ 18-19.

{¶12} The trial court determined, in light of the statutory language set forth in R.C. 2953.21(A)(1)(a) and the Supreme Court of Ohio's holding in *Cowan,* that it lacked jurisdiction to entertain Tilton's petition. The trial court was correct.

{¶13} Because the trial court lacked jurisdiction to consider Tilton's arguments, it rightly concluded it could not address his arguments. An "appellate court acts entirely as a court of errors . . . ." *Longworth v. Sturges,* 4 Ohio St. 690, 697 (1855). The trial court, in concluding the petition must be dismissed, determined

the dismissal was appropriate under Civ.R. 12(B)(3) (improper venue) and Civ.R. 12(B)(6) (failure to state a claim upon which relief might be granted). We agree with the trial court's conclusion, but for a different reason.

{¶14} Pursuant to *Cowan,* we conclude the trial court lacked jurisdiction over the subject matter pursuant to Civ.R. 12(B)(1). As suggested above, a "petition for postconviction relief is a collateral civil attack on a criminal conviction." *State v. Peters,* 2019-Ohio-4617, ¶ 11 (6th Dist.), citing *State v. Steffen,* 1994-Ohio-111, ¶ 60. Thus, the Ohio Rules of Civil Procedure apply. In light of the statutory and case authority, the trial court could not consider Tilton's petition for postconviction relief. As a matter of law, we find no error in the trial court's determination.

{¶15} Therefore, appellant's assignments of error are without merit. The trial court's decision is affirmed.

MATT LYNCH, P.J.,
JOHN J. EKLUND, J.,
concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this court, appellant's assignments of error are without merit. It is the judgment and order of this court that the judgment of the Lake County Court of Common Pleas is affirmed.

Any pending motions are hereby overruled as moot.

Costs to be taxed against appellant.

/s/
JUDGE EUGENE A. LUCCI

/s/
PRESIDING JUDGE MATT LYNCH,
concurs

/s/
JUDGE JOHN J. EKLUND,
concurs

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY

A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.

APPENDIX D

IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY

STATE OF OHIO,
CITY OF EASTLAKE,
Plaintiff-Appellee,

-vs -

DENNIS GAIL TILTON,
Defendant-Appellant.

JUDGMENT ENTRY

CASE NOS. 2025-L-016 2025-L-017

On December 18, 2025, appellant, Dennis Gail Tilton, filed an application for reconsideration, pursuant to App.R. 26(A), of this court's opinion and judgment in *State v. Tilton,* 2025-Ohio-5471 (11th Dist.), released on December 8, 2025.

In his application, Tilton claims he does not seek to reargue the merits of the underlying appeal. He claims, however, that because this court's analysis in the underlying opinion rests upon (1) a misapprehension of the "procedural posture of the appellate record," (2) an "internal inconsistency created by deflecting preserved issues to postconviction proceedings," and (3) "a prejudice analysis that

assumes record completeness," this court's disposition requires reconsideration. We do not agree.

The test this court applies when considering an application for reconsideration is whether the application "calls to the attention of the court an obvious error in its decision or raises an issue for our consideration that was either not considered at all or was not fully considered by us when it should have been." *Matthews v. Matthews,* 5 Ohio App.3d 140, 143 (10th Dist. 1981).

Moreover,

> [a]n application for reconsideration is not designed for use in instances where a party simply disagrees with the conclusions reached and the logic used by an appellate court. App.R. 26 provides a mechanism by which a party may prevent miscarriages of justice that could arise when an appellate court makes an obvious error or renders an unsupportable decision under the law.

State v. Owens, 112 Ohio App.3d 334, 336, (11th Dist.1996).

Tilton has failed to meet the requirements for reconsideration.

Tilton first asserts this court "misapprehended the procedural posture of the appellate record." To wit, he claims that even though this court determined no irregularities in the record were demonstrated and

that the exhibits were neither mislabeled nor incomplete, his invocation of various App.R. 9(E) in his appellate brief, which this court did not discuss in the opinion, demonstrates reconsideration is necessary.

Contrary to Tilton's assertions, this court, in a July 2025 judgment entry, considered his App.R. 9(E) filing. On May 23, 2025, Tilton filed a motion captioned "Motion for Leave to Supplement the Record Pursuant to App.R. 9(E)." This court, in overruling the motion, observed:

> Tilton is entitled to rely upon any and everything in the trial court record as it pertains to the direct appeal which he filed in the underlying matter. Anything outside that record is not appropriate to rely upon on direct appeal. Again, matters dehors the record may only be utilized to create a record in a postconviction action. To the extent Tilton's motion asks this court to supplement the trial record with filings and exhibits dehors the record. . .

July 31, 2025 judgment entry, p. 3

App.R. 9(E) provides the procedure for correcting omissions from the record on appeal. *See, e.g., State v. Frazier,* 2016-Ohio-727, ¶ 69 (2d Dist.). That appellate rule states:

> Correction or Modification of the Record. If any difference arises as to whether the record truly discloses what occurred in the

> trial court, the difference shall be submitted to and settled by the trial court and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is misstated, the parties by stipulation, or the trial court, either before or after the record is transmitted to the court of appeals, or the court of appeals, on proper suggestion or of its own initiative, may direct that omission or misstatement be corrected, and if necessary that a supplemental record be certified, filed, and transmitted. All other questions as to the form and content of the record shall be presented to the court of appeals.

As noted above, this court considered the App.R. 9(E) filing and determined it requested supplementing the appellate record with matters outside the record. In doing so, this court concluded there was no omission or misstatement that required correction. Further, in finding Tilton's first, second, and eighth assigned errors without merit, this court highlighted the point in the underlying opinion. *See Tilton,* 2025-Ohio-5471 at ¶ 23-28 (11th Dist.).

Next, Tilton claims this court's opinion created a "procedural dead-end by deflecting preserved issues to PCR." Tilton highlights features of the underlying opinion wherein this court found his claims regarding prosecutorial misconduct, i.e., the alleged withholding of evidence in violation of *Brady v. Maryland,* 373 U.S. 83 (1963), without merit.

In our analysis, this court determined that "[t]here is nothing in the record before the court indicating that the State withheld any evidence, let alone exculpatory evidence." *Tilton at* ¶ 59. Moreover, in the July 2025 judgment entry, this court found that Tilton's request to supplement the record with certain materials were dehors the record. The point identified by Tilton has been fully addressed by both the underlying opinion and the July 2025 judgment entry.

Next, Tilton asserts this court's "prejudice analysis is circular given the disputed record." Specifically, Tilton claims this court's determination that his claims implicating suppression of exculpatory evidence are without merit, *Tilton,* 2025-Ohio-5471 at ¶ 59 (11th Dist.), and our conclusion that the materials at issue are not part of the record, *id.* at ¶ 56-58, makes it impossible for him to ever show prejudice. He claims he attempted to preserve this issue via his App.R. 9(E) request, which argued the record was incomplete. As a result, he maintains this court erred by preventing him from supplementing the record but, at the same time, finding no prejudice due to the lack of evidence in the record. Tilton misapprehends this court's determination.

Although this court, in its July 2025 judgment, identified post-conviction as a means for raising materials de hors the record, this court cannot and did not advise Tilton to do so. The Ohio Supreme Court has held that "[a] municipal court is without jurisdiction to review a petition for postconviction relief filed pursuant to R.C. 2953.21." *State v. Cowan,* 2004-Ohio-1583, syllabus. The postconviction statutes do not afford Tilton a means for securing relief from his

misdemeanor conviction. *State v. Black,* 2008-Ohio-3790, ¶ 9 (1st Dist.) (a misdemeanor defendant "was limited in challenging his conviction to the procedures prescribed by the appellate rules and to the matters disclosed by the trial record"). To wit, the Ohio statutes require that a postconviction petitioner file his or her petition with the court that sentenced him or her. R.C. 2953.21(A)(1)(a) ("A person in any of the following categories may file a petition in the court that imposed sentence . . . .") The underlying appeal was taken from the Willoughby *Municipal* Court. That court had no jurisdiction to rule upon such a petition. *Cowan.*

In light of the trial court record and that which was transmitted to this court on appeal, this court determined Tilton's efforts to supplement the record would involve matters that were not part of the trial court's record. In a municipal court appeal, we are confined to matters within the record. Without the items in the record, this court could not find prejudice. Tilton's assertions are without merit.

Tilton's application for reconsideration is overruled.

Pursuant to this judgment entry, any pending motions are hereby overruled as moot.

/s/
JUDGE EUGENE A. LUCCI

MATT LYNCH, P.J.,
SCOTT LYNCH, J.,
concur.

(Appendix D, continued)

IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY

STATE OF OHIO,
CITY OF EASTLAKE,
Plaintiff-Appellee,

-vs -

DENNIS GAIL TILTON,
Defendant-Appellant.

CASE NOS. 2025-L-016 2025-L-017

Criminal Appeals from the
Willoughby Municipal Court

Trial Court Nos. 2024 TRC 04297
2024 CRB 02089

OPINION AND JUDGMENT ENTRY

Decided: December 8, 2025
Judgment: Affirmed

Jacqueline O'Donnell, City of Eastlake Prosecutor, 35150 Lakeshore Boulevard, Eastlake, OH 44095 (For Plaintiff-Appellee).

Dennis Gail Tilton, pro se, 35673 West Island Drive,

Eastlake, OH 44095 (Defendant-Appellant).

EUGENE A. LUCCI, J.

{¶1} Appellant, Dennis Gail Tilton, appeals, pro se, the judgments of the Willoughby Municipal Court, convicting him on one count of operating a vehicle while under the influence of alcohol and one count of resisting arrest. We affirm.

{¶2} On September 8, 2024, the Eastlake Police Department and Eastlake Fire Department responded to a two-car motor vehicle accident. During the on-scene investigation, officers determined appellant was at fault.

{¶3} Officer Justus McGrath stated he approached appellant and asked for his driver's license and proof of insurance. According to the officer, appellant asked, "why?" At this point, Officer McGrath noticed an odor of an alcoholic beverage[1] coming from appellant's

---

[1] Throughout this opinion, we use the phrase "odor of an alcoholic beverage" rather than "odor of alcohol," which appears in portions of the trial testimony and record. While some witnesses did testify to smelling an "alcoholic beverage," others used the less precise term "alcohol." Officers cannot detect the odor of ethanol itself through smell; rather, they detect the characteristic odors of beer, wine, or distilled spirits, which arise from congeners and other volatile compounds in alcoholic beverages. We employ the more precise terminology consistently throughout this opinion, as it better reflects what witnesses actually perceive. This clarification does not affect our analysis of the evidence. *See, e.g.,* Transcript p. 188, line 5; p. 282, line 10; and p. 284, line 4.

breath and appellant's eyes were glossy with dilated pupils. The officer also noted appellant was unusually argumentative.

{¶4} During their interaction, appellant admitted he was not in pain after the accident, and the officer did not notice any observable injuries. Officer McGrath, however, asked if appellant would be willing to have EMS personnel assess him. Appellant responded, "No, why would I need that?" The officer asked appellant if he would be willing to submit to standard field sobriety tests, but he refused.

{¶5} Officer McGrath asked appellant to step out of the vehicle, but appellant did not comply. Instead, he leaned over the center console and gripped the vehicle's steering wheel with his left hand. The officer again asked appellant to exit the vehicle, but he replied, "no."

{¶6} Officer McGrath attempted to remove appellant from the vehicle but was unable. He requested assistance from Lieutenant John McCauley who also asked appellant to exit the vehicle. When appellant did not comply, Lt. McCauley explained he would have to use force and unholstered his taser. Confronted with the taser, appellant exited the vehicle.

{¶7} After removing appellant from his vehicle, Lt. McCauley asked him three separate times to explain the circumstances that led to the accident. The first two questions were ignored but after the third, the lieutenant stated appellant "used [an] expletive term

saying that, you would have to tell me what happened." Lt. McCauley noticed a strong odor of an alcoholic beverage on appellant's breath and stated appellant's eyes were bloodshot.

{¶8} Kirk Lovick, a lieutenant with the Eastlake Fire Department, stated he approached appellant to determine whether he required medical assistance. Lt. Lovick, at the time of trial, had been a paramedic for 18 years. Lt. Lovick asked appellant if he was "okay," to which appellant responded in the affirmative. The lieutenant then checked the passenger of the other vehicle and determined that she was not physically injured.

{¶9} The lieutenant returned to speak with appellant, inquiring again about his physical condition and then asked where he was going and from where he had left. Appellant stated he was going home, but he told the lieutenant he did not have to explain where he was.

{¶10} During their interaction, Lt. Lovick stated appellant would not look directly at him and appellant smelled of an alcoholic beverage and had slurred, drawn-out speech. The lieutenant explained that he asked appellant questions to make sure, in his estimation, appellant did not have a head injury. During the second interaction, Lt. Lovick asked appellant whether he had been drinking. Appellant responded, "are you accusing me of being drunk" and then stated, "I don't have to tell you that."

{¶11} EMS officer/firefighter, Jason Gvora, an

EMS worker for 23 years, also conversed with appellant at the scene. Officer Gvora observed that appellant was argumentative with him and refused to cooperate.

{¶12} Officer Gvora asked appellant whether he was hurt or having any problems. Appellant remained silent. In order to determine whether appellant was "okay," Officer Gvora asked for appellant's name, date of birth, and address. Appellant did not respond to the initial questions, but appellant finally stated, "I'm not giving you my address." Officer Gvora noted that appellant was adamant in refusing to answer any questions and also refused an initial physical assessment.

{¶13} Officer Gvora conclusively stated that appellant denied any injuries and did not wish to be transported to the hospital. Appellant refused Officer Gvora's attempt to medically assess him, but, according to Officer Gvora's visual assessment, he did not "notice any sort of injury on his – from his torso on up, from what I could tell, to his head." Officer Gvora continued: "You also kind of look for things like guarding, or wincing, or something, if he's moving. . . . I didn't notice any of those things." The officer observed appellant was slurring his speech on the scene and he noticed "a very strong smell of alcohol" coming from the window of appellant's car.

{¶14} After being removed from his vehicle, Eastlake police attempted to put appellant into Officer McGrath's cruiser. Appellant refused to enter the cruiser on his own, and Officer McGrath and Lt.

McCauley had to assist him. A catheter was recovered from appellant's vehicle which was transported with appellant to the Eastlake City Jail.

{¶15} Upon arrival at the jail, appellant stumbled exiting the cruiser. When appellant was initially processed for booking, an on-site officer asked for his name. Appellant replied his "name is on the court docket." Appellant was not initially booked at the jail because another male was being processed. Appellant was accordingly taken to a cell in the jail.

{¶16} Officer McGrath attempted to advise appellant regarding the "BMV 2255" form, which prompts "an OVI suspect of his or her rights to either take a breath, urine, or blood sample." The officer was unable to fully read appellant his rights, pursuant to the form, due to his argumentativeness and continual interruptions.

{¶17} Officer McGrath noted that appellant's interruptions related to his request for his catheter. The officer retrieved the catheter approximately five to seven minutes after appellant's request and provided it to him. After providing appellant with the catheter, the officer testified he continued to assist a separate officer with the booking of another individual.

{¶18} Officer McGrath returned to appellant's cell and attempted to advise appellant of his rights pursuant to the BMV 2255 form. After offering the advisements twice, appellant repeatedly stated he did not "understand" and accused the officer of slurring *his* speech. Due to appellant's conduct and his consistent

deflections, the officer concluded that appellant was refusing a breath test. Appellant continued with his obstreperous behavior.

{¶19} According to appellant, he had not had an alcoholic beverage on the day in question. Instead, he stated he was rebuilding a boat engine throughout the day which required the use of various chemicals that irritated the eyes. He also asserted he had not eaten since breakfast at 6:30 or 7:00 a.m. According to appellant and his wife, he has low blood sugar which causes irritability and confusion. Appellant produced no documentation or medical records of his condition or its symptoms or side effects.

{¶20} Appellant was charged with operating a vehicle while under the influence of alcohol, a misdemeanor of the first degree, in violation of R.C. 4511.19(A)(1)(a); one count of operating a vehicle while under the influence of alcohol and refusing to provide a breath/blood sample, a misdemeanor of the first degree, in violation of R.C. 4511.19(A)(2); and lanes of travel upon roadways, a minor misdemeanor, in violation of R.C. 4511.25(A). Appellant was later charged with one count of resisting arrest, a misdemeanor of the second degree, in violation of R.C. 2921.33(A). Appellant pleaded "not guilty," and the case proceeded to a jury trial. Appellant was found guilty on all charges.

{¶21} At sentencing, the trial court ordered the two OVI counts to merge for purposes of sentencing. On the surviving OVI charge, the trial court ordered appellant to serve 180 days in the Lake County Jail,

150 of which were suspended. On the resisting arrest charge, the trial court ordered appellant to serve 90 days in the Lake County Jail, 65 of which were suspended. The trial court ordered the sentences to run concurrently. Appellant was also placed on a period of community control for 18 months. Moreover, the court ordered restitution to the victim, who testified her insurance covered the damage to her vehicle. The prosecutor represented the victim's deductible was $500 and, as a result, the court awarded restitution in the amount of the victim's deductible. Neither defense counsel nor appellant contested the restitution order.

{¶22} Appellant filed a notice of appeal, but the transcripts of proceedings were not properly processed. After voluminous motion practice, the transcripts were finally made part of the record. Appellate briefs were filed prior to the transcripts being supplemented into the record. Accordingly, this court allowed supplemental briefing to permit additional argumentation in light of the inclusion of the transcripts in the record.[2] In his initial brief, appellant

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[2] Appellant's initial merit brief and supplemental brief are cryptically arranged such that this court is required to decipher or construe the exact nature of the arguments related to the errors he assigns. This court diligently reviewed each brief and shall address the merits of each brief, but we also emphasize that appellant's stylistically strange and desultory method of argumentation makes it difficult to track his central themes on appeal. Still, we recognize appellant's supplemental brief generally tracks similar arguments made in his original brief. Therefore, any matters raised in the supplementary brief will be addressed under the relevant assigned errors in appellant's

assigns eight errors. We shall consider his first, second, and eighth assignments of error together. They provide:

> [1.]The trial court violated appellant's right to due process by certifying and transmitting a redacted and incomplete video exhibit, misrepresenting the record.
>
> [2.]The Willoughby Municipal Court and Eleventh District Court of Appeals obstructed Appellant's appellate rights by failing to certify a complete and accurate record, in violation of App.R. 9(E).
>
> [8.] The exclusion of transcript volumes, docket filings and affidavits submitted by the appellant obstructed meaningful appellate review, violating fundamental fairness as established by Griffen v. Illinois and Evitts v. Lucey.

{¶23} Under these assignments of error, appellant contends the record in his case is incomplete and/or inaccurate, and therefore his right to due process was violated. The certified record speaks for itself, and we discern nothing irregular.

{¶24} The record included a flash drive containing trial exhibits. The exhibits were recordings of the video at the police station where appellant was transferred

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original merit brief.

after his arrest. The videos were played during trial, were not mislabeled, nor do they appear to be incomplete. The portions played at trial do not imply the exhibit was redacted. It only indicates the State utilized the evidence to establish its case. No objection was leveled, and we perceive no error in failing to object to this point.

{¶25} Furthermore, even though the transcripts were not originally filed with the record, this court, in a July 31, 2025 judgment, ordered the record to be supplemented with the same. This court also afforded the parties to file supplemental briefs after the transcripts were filed.

{¶26} Appellant was convicted of OVI and resisting arrest. The officers' testimony was sufficient to provide evidence of both the OVI and the resisting-arrest charge. We discern no issues with the state of the record, and we consequently hold appellant was not deprived of due process.

{¶27} Appellant additionally asserts the transcript of the docket and journal entries are inaccurate. He asserts that because the docket entries listing "Police Report Filed" and "Personal Identifier Form" are observed on the docket, but not made part of the public docket, the reliability of the docket and the proceedings below must be called into question.

{¶28} Even assuming these filings are not part of the public record, appellant fails to argue or remotely substantiate how the absence of these filings contributed to any irregularity in the proceedings

below. Appellant does not demonstrate how the alleged absences from the public docket affected his right to a fair trial or his right to due process. The record and docket are sufficient to apprise appellant of the charges, and he was afforded a full and fair trial. Appellant presented a defense recounting his various alleged medical issues and even testified on his own behalf. He was afforded full and fair constitutional due process. We discern no error.

{¶29} Appellant's first, second, and eighth assignments of error lack merit. IT30} Appellant's third assignment of error provides:

{¶31} "The State committed prosecutorial misconduct by introducing prior convictions and mischaracterizing statutory advisements as Constitutional rights during opening statements."

{¶32} Appellant claims that the State engaged in prosecutorial misconduct by improperly referencing previous OVI convictions during its opening statement. We do not agree.

{¶33} "To address allegations of prosecutorial misconduct we 'must determine (1) whether the prosecutor's conduct was improper and (2) if so, whether it prejudicially affected [the defendant's] substantial rights.'" *State v. Light*, 2023-Ohio-1187, ¶ 46 (11th Dist.), quoting *State v. LaMar*, 2002-Ohio-2128, ¶ 121. "'The touchstone of the analysis "is the fairness of the trial, not the culpability of the prosecutor."'" *Light* at ¶ 46, quoting *State v. Garrett*, 2022-Ohio-4218, ¶ 144, quoting *Smith v.*

Phillips, 455 U.S. 209, 219 (1982). "Thus, 'prosecutorial misconduct alone does not require a new trial' and '[t]he conduct of a prosecuting attorney during trial cannot be made a ground of error *unless* the conduct deprives defendant of a fair trial.'" (Emphasis in original.) *Light* at ¶ 46, quoting *State v. Hamad*, 2019-Ohio-2664, ¶ 123 (11th Dist.).

{¶34} "[T]he function of an opening statement by counsel in a jury trial is to inform the jury in a concise and orderly way of the nature of the case and the questions involved, and to outline the facts intended to be proved." *Maggio v. Cleveland*, 151 Ohio St. 136 (1949), paragraph one of the syllabus. "During opening statement, counsel is accorded latitude and allowed fair comment on the facts to be presented at trial." (Citations omitted.) *State v. Leonard*, 2004-Ohio-6235, ¶ 157. Because appellant's counsel failed to object during opening statements, he has forfeited all but plain error. *State v. Twyford*, 2002-Ohio-894, ¶ 68.

{¶35} R.C. 4511.19 provides:

> (A)(2) No person who, within twenty years of the conduct described in division (A)(2)(a) of this section, previously has been convicted of or pleaded guilty to a violation of this division, a violation of division (A)(1) of this section, or any other equivalent offense shall do both of the following:
>
> (a) Operate any vehicle, streetcar, or trackless trolley within this state while under the influence of alcohol, a drug of

abuse, or a combination of them;

(b) Subsequent to being arrested for operating the vehicle, streetcar, or trackless trolley as described in division (A)(2)(a) of this section, being asked by a law enforcement officer to submit to a chemical test or tests under section 4511.191 of the Revised Code, and being advised by the officer in accordance with section 4511.192 of the Revised Code of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.

{¶36} During opening, the prosecutor stated that the second OVI charge alleged appellant "operated his motor vehicle under the influence of alcohol, drug of abuse, or a combination of them, and he refused to submit to a breath, blood, or urine test when asked and advised of his rights, and he has a prior conviction within 20 years." This statement simply set forth the elements of the OVI charge. The State did not belabor, dwell upon, overdramatize, or overelaborate on the point. The prior conviction was an element of the OVI offense that the State was required to prove. We discern no error, let alone plain error.

{¶37} Moreover, as an adjunct to this point, appellant claims, in his supplemental brief that the trial court "misused" a joint stipulation agreed upon by the parties. On day two of the trial, the parties entered the following stipulation:

We, Defendant Dennis G. Tilton and the

> attorneys for the respective parties, do hereby stipulate to the following without the necessity of testimony or other evidentiary documentation:
>
> "That the Defendant, within twenty years of the offenses charged, has previously been convicted of or pleaded guilty to the offense of Operating a Vehicle While Under the Influence of Alcohol, Drugs, or a Combination of Them."

{¶38} The trial court noted that the stipulation was signed by the parties and neither defense counsel nor appellant took issue with this point. Appellant therefore agreed to stipulate to the element of a "prior conviction" thereby relieving the State of its burden of production on this point. Even though the State mentioned the element in opening, it is well-established that opening statements are not evidence. *See, e.g., State v. Graham*, 2020-Ohio-6700, ¶ 74. The "prior conviction" element was not discussed during testimony, and the stipulation relieved the State of its burden of producing such testimony.

{¶39} In his supplemental brief, appellant argues, however, the joint stipulation was accepted despite its execution occurring "off record [and in] the lobby . . . under coercion and duress." Whether appellant was pressured into the stipulation is not a matter for this court to decide on direct appeal. That is a matter dehors the record and can only be raised in a petition for post-conviction relief. *See State v. Moon*, 2014-Ohio-108, ¶ 13 (8th Dist.), citing *State v.*

Cooperrider, 4 Ohio St.3d 226, 228-229 (1983) (a petition for postconviction relief, not a direct appeal, is the appropriate vehicle for asserting a claim relating to evidence dehors the record). We maintain there was no error.

{¶40} Appellant's third assignment of error lacks merit.

{¶41} Appellant's fourth assignment of error provides:

{¶42} "Trial counsel rendered ineffective assistance by failing to object to unauthenticated evidence, suppress redacted exhibits, and assert appellant's medical and constitutional defenses."

{¶43} To demonstrate ineffective assistance of counsel, a defendant must prove "(1) that counsel's performance fell below an objective standard of reasonableness, and (2) that counsel's deficient performance prejudiced the defendant resulting in an unreliable or fundamentally unfair outcome of the proceeding." *State v. Madrigal*, 2000Ohio-448, ¶ 49, citing *Strickland v. Washington*, 466 U.S. 668, 687-688 (1984). "To show that a defendant has been prejudiced by counsel's deficient performance, the defendant must prove that there exists a reasonable probability that, were it not for counsel's errors, the result of the trial would have been different." *State v. Bradley*, 42 Ohio St.3d 136 (1989), paragraph three of the syllabus.

{¶44} Appellant contends that his trial counsel was ineffective for failing to object to evidence,

suppress exhibits, and assert certain medical defenses. We do not agree.

{¶45} At trial, the trial court admitted the State's exhibits. One exhibit was an aerial view of the intersection where the crash occurred. The other exhibit included appellant's booking video.

{¶46} With respect to the photo, appellant contends it was improperly admitted because it is unclear when the photo was taken, who took the photo, or whether it accurately portrayed the scene at the time of the accident. The photo was introduced as a reference tool. Counsel's failure to object is not error, and we fail to see how counsel's lack of objection created a reasonable probability that the outcome of the trial would have been different.

{¶47} Further, the booking video was introduced to demonstrate appellant's uncooperativeness and unusual behavior, likely to supplement the evidence of the OVI and resisting-arrest charges. The officers testified to appellant's recalcitrant attitude during their interactions with him at the scene of the accident. His defiance and unwillingness to engage or cooperate with officers was manifest. We fail to see how the suppression of the booking video would have any likelihood of changing the outcome.

{¶48} Also, in any event, defense counsel could have requested that the full video be played to the jury. He did not, but we maintain such a decision is a matter of trial strategy. "'[D]ebatable trial tactics do not establish ineffective assistance of counsel.'" *State*

v. Johnson, 2010-Ohio-3046, ¶ 37 (11th Dist.), quoting *State v. Hoffner*, 2004-Ohio3430, ¶ 45. Here, counsel may have reasonably concluded that elongating the proceedings may have frustrated jurors and distracted them from appellant's primary defense. We see no error.

{¶49} Finally, trial counsel addressed appellant's various medical issues throughout the trial to defend against the charges. Counsel repeatedly, particularly with the EMS witnesses, questioned whether appellant's various medical conditions, e.g., the low-blood sugar or his issue with a catheter, could have contributed to or created the confusion and behavior appellant exhibited at the accident scene. Moreover, appellant, and his wife, testified on his own behalf and articulated the symptoms he might experience if his blood sugar was low. Counsel effectively brought to light appellant's various medical conditions and was not ineffective for further pursuing these defenses.

{¶50} Appellant's fourth assignment of error lacks merit.

{¶51} Appellant's fifth assignment of error provides:

{¶52} "The trial court admitted speculative, unauthenticated testimony regarding an alleged crash scene through Exhibit 1 and lay witnesses violating Evid.R. 901 and 702."

{¶53} As noted above, State's Exhibit 1 was

identified as an aerial photo depicting the intersection where the accident occurred. Evid.R. 901(A) provides: "[t]he requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims." "In order to be admissible, the State was only required to present evidence sufficient to lay a foundation and to connect the photographs with the relevant facts of the case." *State v. Miller*, 2015-Ohio-956, ¶ 21 (11th Dist.), citing *State v. Brooks,* 101 Ohio App.3d 260, 264 (2d Dist. 1995), citing 2 Weissenberger, *Ohio Evidence*, § 901.16, at 1314 (Rev. 1988). "'This low threshold standard does not require *conclusive* proof of authenticity, but only sufficient foundational evidence for the trier of fact to conclude that the document is what its proponent claims it to be.'" (Emphasis in original.) *Miller* at ¶ 21, quoting *State v. Easter,* 75 Ohio App.3d 22, 25 (4th Dist. 1991).

{¶54} The photograph was admitted without objection. The photograph was identified by the victim during her testimony as well as during a witness's testimony who observed the accident and called 911. A foundation for the introduction was provided, and the photo was connected to the relevant facts of the case. We see no error in the trial court's admission of the photograph.

{¶55} Appellant's fifth assignment of error lacks merit.

{¶56} Appellant's sixth assigned error provides:

{¶57} "The State and the trial court suppressed or failed to preserve exculpatory material, including report 24-01444 and the video arraignment file, constituting violations of Brady v. Maryland."

{¶58} "[A] prosecutor violates due process when he (1) suppresses evidence (2) that is favorable to the defendant, when that evidence (3) is material to guilt or innocence." *United States v. Olsen,* 737 F.3d 625, 628 (9th Cir. 2013) (Kozinski, C.J., dissenting), citing *Brady v. Maryland,* 373 U.S. 83, 87 (1963).

{¶59} Appellant contends the State suppressed material evidence. There is nothing in the record before the court indicating that the State withheld any evidence, let alone exculpatory evidence. For all we know, "report 24-01444" and the "video arraignment file" were available to appellant during discovery, but counsel simply determined the "evidence" was not useful to appellant's defense. Such a determination would be within the realm of reasonable trial strategy, especially where appellant's trial defense leaned heavily upon his specific and unique medical condition which requires him to use a catheter and allegedly caused him irritability and confusion. Considering this point, it is additionally unclear how "report 24-01444" or the "video arraignment file" would be material to appellant's "innocence." Appellant fails to create a reasonable nexus between the evidence at issue and the alleged *Brady* violation(s).

{¶60} Appellant's sixth assignment of error lacks merit.

{¶61} Appellant's seventh assigned error asserts:

{¶62} "The cumulative denial of ADA accommodations, medical relief and appellate access constitutes a systematic due process violation under the Fourteenth Amendment and 42 U.S.C. § 12132."

{¶63} Appellant has a medical condition requiring the use of a catheter, which was recovered on his person following his arrest. The catheter was returned to him shortly after arriving at the Eastlake Police Department. Furthermore, at trial, the trial court was conscientious of appellant's potential medical problems and allowed him to take a break during his testimony. During trial, the following exchange occurred:

> The Court: . . . Now, do you need a break?
>
> The Defendant: It would be great if the air conditioning could be turned off.
>
> The Court: Okay. Well, unfortunately, everyone in this building has already gotten - - has had some experience now with the heating and cooling system here. As much as I would like to control that, I simply cannot. So if you need a break - - [defense counsel], would you like to take that now?
>
> [Defense counsel]: Yes, Your Honor, if we could take a break.
>
> The Court: Okay. So, ladies and gentlemen, we are going to take a break. If others are

uncomfortable with the temperature, I do apologize. I can't control the way the heating and cooling is set up here. We really do our best with that. But we will break.

. . .

Okay, we're back on the record. We're outside the presence of the jury. The witness, the defendant, Mr. Tilton, while in the box, indicated to the Court - - looked at the Court and asked for a break saying that he hadn't eaten anything today. And he has just completed, on direct testimony, testifying to numerous self-disclosed health issues. We don't have any information on that other than what he has disclosed here.

So, I started to – I excused the jury. We started to break. And now he is shaking, indicating that he's cold. So, we've now called the Willoughby Fire Department to have him checked out.

. . .

We're on the record. The parties are present in the courtroom. The defendant, Mr. Tilton, is in the box. We took a recess because Mr. Tilton was not feeling well. We're outside the presence of the jury. We called the Willoughby EMS. They have since come to the courtroom. They have checked on Mr. Tilton. I have been advised that he as

requested to not be transported.

. . .

> Okay, we will continue. Mr. Tilton is still in the box. The temperature situation we've discussed. It's outside of the Court's control, but now he has on some gloves and his coat, and we've offered a heater. And if that changes, he will let us know.

{¶64} Considering the foregoing, we decline to conclude that police, other first responders, or the trial court ignored or disregarded appellant's medical issues. He was treated reasonably and fairly. We accordingly see no error, let alone cumulative error, in the manner in which he was treated pre-arrest, post-arrest, or during his jury trial.

{¶65} Next, in his supplemental brief, appellant additionally takes issue with the trial court's management of his late arrival to his trial and its subsequent inquiry into his alleged hearing (auditory) issues. The trial was set for 8:00 a.m. and appellant did not arrive until nearly 9:00 a.m. Upon appellant's arrival, the court asked him several questions, and appellant appeared to be hard of hearing. The court asked appellant if he could sufficiently hear, and appellant responded, "I have tinnitus." The court asked appellant if he required a hearing aid, but appellant stated, "That doesn't help." Appellant eventually indicated he could hear fine.

{¶66} The court asked why appellant was nearly

an hour late for his trial, to which he responded: "I've been in bed with what's called petite pneumonia. It strikes me unknowingly in cold weather sometimes. It's been in my past since 1974 - - no, I'm sorry, '76. I've had about six bouts of it. And about the only thing to get rid of it is bedrest." The court asked appellant if he had seen a physician in the last 48 hours. Appellant stated "No, ma'am, I have not. I've been in bed." The court confirmed that no one has diagnosed him recently with his claimed medical problem and admonished him that 50-plus people have been waiting to serve on the jury for his trial and that the court was not comfortable with keeping these people waiting. Appellant did not respond.

{¶67} It is unclear how appellant was mistreated, or his alleged medical condition(s) were ignored by the court. The court took issue with appellant's tardiness and explained that it was unacceptable. We discern no error in the way the court managed this situation.

{¶68} In addition, appellant, in his supplemental brief, argues the trial court's supersedeas bond exceeded the $500 restitution order and "obstructed his medical care at the Cleveland Clinic." We observe no relationship between the bond order and the restitution order to which the victim stated she had to pay pursuant to her insurance premium.

{¶69} Appellant further takes issue with the "disproportionate" restitution order by the trial court. The victim testified that she was insured, and she was required to pay her premium. The court ordered $500 in restitution, which represented the victim's premium

she was required to pay. No objection was made to this point.

{¶70} "A defendant who does not dispute an amount of restitution, request a hearing, or otherwise object waives all but plain error in regards to the order of restitution." *State v. Snowden*, 2019-Ohio-3006, ¶ 88 (2d Dist.), citing *State v. Woods*, 2016-Ohio-1103, ¶ 12 (2d Dist.). *See also State v. Floyd*, 2020-Ohio-4655, ¶ 13 (10th Dist.). "Notice of plain error under Crim.R. 52(B) is to be taken with the utmost caution, under exceptional circumstances and only to prevent a manifest miscarriage of justice." *State v. Long*, 53 Ohio St.2d 91 (1978), paragraph three of the syllabus.

{¶71} We find no plain error in the trial court's award of the victim's insurance premium as restitution.

{¶72} Finally, appellant, in his supplemental brief, claims, repeatedly, he was subjected to poor and unreasonable treatment by police and the trial court. Appellant argues he "endured trial and sentencing while incapacitated – visibly ill, checked by EMS, denied food, [and] confined without medical relief." These representations are belied by the record.

{¶73} The trial court *ensured* appellant was comfortable and medically capable of proceeding with the trial. Any argument regarding his dissatisfaction with the court proceedings is unavailing. A court proceeding is not a trip to the "spa." One is in court to answer a criminal charge (or charges). To the extent appellant was incapable of going forward, his concerns

were adequately and reasonably addressed. If appellant did not have food prior to the proceedings, that is not the fault of the court, especially given appellant's continuous claim that his low blood sugar affects his temperament. Any issue, in this respect, appellant was aware of and therefore invited. The court in this case assisted appellant as much as might be deemed reasonably possible. His claims to the contrary are without merit.

{¶74} Appellant's seventh assignment of error lacks merit.

{¶75} While we appreciate appellant's rigor and tenacity in challenging his convictions on appeal, the properly admitted evidence in this matter supports the jury's verdict beyond a reasonable doubt. A defendant, including appellant, is afforded all presumptions in favor of his or her innocence at the trial level. Appellant takes issue with the State's witnesses and its evidence. His challenges are arguably reasonable, especially in light of trial counsel's reasonable and fair Crim.R. 29 argument to dismiss the charges at the close of the State's evidence. Nevertheless, the evidence was sufficient and consistent with the manifest weight of the evidence. No evidence was submitted that could be reasonably construed as prejudicial to appellant's defense. Further, nothing at sentencing was irregular or unsupported by the evidence.

{¶76} The Willoughby Municipal Court's judgments are affirmed.

MATT LYNCH, J.,
SCOTT LYNCH, J.,
concur.

JUDGMENT ENTRY

For the reasons stated in the opinion of this court, appellant's assignments of error lack merit. It is the judgment and order of this court that the judgments of the Willoughby Municipal Court are affirmed.

Costs to be taxed against appellant.

JUDGE EUGENE A. LUCCI

JUDGE MATT LYNCH, concurs

JUDGE SCOTT LYNCH, concurs

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY

A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.

APPENDIX E

IN THE COURT OF COMMON PLEAS
LAKE COUNTY, OHIO

DENNIS G. TILTON
Plaintiff

vs

STATE OF OHIO
Defendant

CASE NO. 25CV001105

JUDGMENT ENTRY DENYING EMERGENCY MOTION FOR LIMITED RELIEF UNDER CIVIL R. 60(B)(1), (2), (3), AND 5

The within cause came on for consideration upon the Defendant's pro se Emergency Motion for Limited Relief Under Civil R. 60(B)(1), (2), (3), and (5) and for Transfer to Proper Forum, filed August 8, 2025.

Upon review of Defendant's Motion, the Court finds said Motion is not well taken and ought to be denied.

WHEREFORE, it is the order of this Court the Defendant's pro se Emergency Motion for Limited Relief Under Civil R. 60(B)(1), (2), (3), and (5) and for Transfer to Proper Forum, filed August 8, 2025, is hereby denied.

IT IS SO ORDERED.

/s/
Judg Patrick J. Condon

Filing # 265024/25CV001105/CONDON, PATRICK J.

Lake Co Common Pleas Court, Clerk Carl DiFranco
08/11/2025 09:58 AM

APPENDIX F

IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY

Filing # 263447/2025-L-017/FILED: COURT OF APPEALS

Lake Co Common Pleas Court, Clerk Carl DiFranco 07/31/2025 01:13 PM

STATE OF OHIO,
CITY OF EASTLAKE,
Plaintiff-Appellee,

-vs -

DENNIS GAIL TILTON,
Defendant-Appellant.

CASE NOS. 2025-L-016
2025-L-017

JUDGMENT ENTRY

Appellant, Dennis Gail Tilton, has filed multiple motions with this court seeking various forms of relief. The merits of this matter are currently pending on direct appeal with this court.

The motions filed by Tilton relate to supplementation of the record, claims regarding

redacted trial exhibits, controversies regarding verification and certification of filings, and alleged "procedural irregularities" and "systematic constructive denial" of his right to access to the appellate process. The State has not responded.

On May 6, 2025, Tilton filed Motion I, captioned "Motion to Supplement Record Due to Suppression of Material Evidence." In that motion, Tilton requests this court supplement the record pursuant to *Brady v. Maryland,* 373 U.S. 83 (1967). Specifically, he asks the record be supplemented to include a police report documenting repeated requests for hospital transport (which he claims is exculpatory evidence central to his claims of "ADA denial and medical suppression"); booking cell video used by the State at trial but never provided to Tilton; and security or courtroom video reflecting Tilton's presence or exclusion from key hearings.

The materials requested are, by Tilton's admission, dehors the record. A "postconviction action, rather than a direct appeal, is the proper mechanism for asserting [a claim] that is based on evidence dehors the record." *State v. Moon,* 2014-Ohio-108, 1113 (8th Dist.), citing *State v. Cooperrider,* 4 Ohio St.3d 226, 228229 (1983). Motion I is overruled.

On May 12, 2025, Tilton filed what we shall construe as Motion II captioned "Statement Regarding Service Dispute and Record Clarification." In this filing, Tilton seeks to clarify the service history associated with his filing of his March 25, 2025 filing of the record. This court is aware of the filing, and

therefore no action is required. To the extent this filing seeks any specific relief, it is overruled.

Also, on May 12, 2025, Tilton filed Motion Ill, captioned 'Motion for Equal Notification and Access to Appellate Filings." In this filing, Tilton claims that he is at a procedural disadvantage because he is unable to receive "timely rulings, monitor case status in real-time, or respond on equal footing with the State." Notwithstanding his allegations, this court's records demonstrate it has received all filings, and no brief or other filings have been stricken as untimely. This indicates Tilton's access to the appellate process has not been somehow undermined. Motion Ill is overruled.

On May 23, 2025, Tilton filed what we shall construe as Motion IV, captioned "Notice of Delay in Access to Appellate Record and Trial Court Certification." In this filing, Tilton provides this court with notice of certain "procedural obstacles and administrative delay affecting access to the full trial court record . . . ." As will be discussed below, under Motions VI, X, and XI, this court takes notice. To the extent this filing seeks some form of relief, it is overruled.

Also, on May 23, 2025, Tilton filed Motion V, captioned "Motion for Leave to Supplement the Record Pursuant to App.R. 9(E)." In this motion, Tilton claims he appeared at the Willoughby Municipal Court to obtain certified copies of "the complete docket and all post-conviction filings and exhibits submitted in Case Nos. 24CRB02089 and 24TRC04297." While the clerk provided stamped copies of the dockets and

acknowledged receipt of the post-conviction filings, Tilton claims that "certification was denied .." Further, Tilton asserted the trial court issued a judgment indicating it lacked jurisdiction "to review or act on [his] post-conviction filings." Tilton requested this court to grant leave to supplement the appellate record with "certified exhibits and filings"; accept the docket entries and judgment as interim evidence; and preserve his ability to cite and rely upon these filings.

Tilton is entitled to rely upon any and everything in the trial court record as it pertains to the direct appeal which he filed in the underlying matter. Anything outside that record is not appropriate to rely upon on direct appeal. Again, matters dehors the record may only be utilized to create a record in a postconviction action. To the extent Tilton's motion asks this court to supplement the trial record with filings and exhibits dehors the record, Motion V is overruled.

On May 28, 2025, Tilton filed Motion VI, captioned "Emergency Motion to Compel Transmission of Complete and Unredacted Trial Exhibits, Including Video Evidence Shown to the Jury." Because it directly relates to supplementation of the record, which Motions X and XI also contemplate, we shall address these motions collectively below.

Also, on May 28, 2025, Tilton filed Motion VII, captioned "Motion to Preserve and Acknowledge Procedural Irregularities as Grounds for Reversal on Remand." In this filing, Tilton claims he was denied ADA-compliant medical access which affected his

Supplement to the Record Regarding Service and Notice Discrepancies filed May 1, 2025; Motion for Leave to File Out of Time and Affirmation of Defendant's Right to Post-Conviction Relief filed May 1, 2025; Defendant's Supplement to Post Conviction Petition filed May 1, 2025; Defendant's Notice of Corrected Filing filed May 9, 2025 and Defendant's Motion to Compel Disclosure of Suppressed Police Report and Video Evidence Pursuant to Brady v. Maryland and Crim. R. 16 filed May 9, 2025.

A municipal court is without jurisdiction to review a petition for post-conviction relief filed pursuant to R.C. 2953.21. *State v. Cowan* 2004 -Ohio-1583 ¶ 20.

Wherefore, all motions are denied for lack of jurisdiction.

IT IS SO ORDERED.

/s/
JUDGE MARISA L. CORNACHIO

APPENDIX H

WILLOUGHBY MUNICIPAL COURT
LAKE COUNTY, OHIO

Filed in Willoughby Municipal Court. Case# 24TRC04297, File Date 05/22/2025 03:48 PM

STATE OF OHIO
PLAINTIFF(S)

VS.

DENNIS GAIL TILTON
DEFENDANT(S)

JUDGE: MARISA L. CORNACHIO

CASE NO. 24TRC04297

JUDGMENT

This matter is before the Court on Defendant's Notice of Intent to File Post-Conviction Relief and Submission of Exhibits into the Record filed April 9, 2025; Notice of Supplements to Exhibits filed April 11, 2025; Notice of Corrected Exhibit Filing of Exhibits to Post Conviction relief filed April 14, 2025; Notice of Service and Clarification of Prior Filings filed April 16, 2025; Motion for Extension of Time to File Complete Post Conviction Relief Petition or in the Alternative Motion to Accept Late Filing filed April 21, 2025; Supplemental Exhibit Index filed April 21, 2025;

Supplement to the Record Regarding Service and Notice Discrepancies filed May 1, 2025; Motion for Leave to File Out of Time and Affirmation of Defendant's Right to Post-Conviction Relief filed May 1, 2025; Defendant's Supplement to Post Conviction Petition filed May 1, 2025; Defendant's Notice of Corrected Filing filed May 9, 2025 and Defendant's Motion to Compel Disclosure of Suppressed Police Report and Video Evidence Pursuant to Brady v. Maryland and Crim. R. 16 filed May 9, 2025.

A municipal court is without jurisdiction to review a petition for post-conviction relief filed pursuant to R.C. 2953.21. *State y. Cowan* 2004 -Ohio-1583 ¶ 20.

Wherefore, all motions are denied for lack of jurisdiction.

IT IS SO ORDERED.

/s/
JUDGE MARISA L. CORNACHIO

APPENDIX I

IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY

Filing # 241585/25-L-017/FILED: COURT OF APPEALS

Lake Co Common Pleas Court, Clerk Carl DiFranco
03/24/2025 04:10 PM

STATE OF OHIO,
CITY OF EASTLAKE,
Plaintiff-Appellee,

-vs -

DENNIS GAIL TILTON,
Defendant-Appellant.

CASE NOS. 2025-L-016
2025-L-017

MAGISTRATE'S ORDER

On March 21, 2025, appellant filed an "Emergency Motion for Extension of Time to File Appellate Docketing Statement and Initial Brief, and Motion to Compel Production of Records Including Brady Material."

In his motion, appellant asks this court to order

the Willoughby Municipal Court to produce all necessary records for appeal. Pursuant to this court's February 20, 2025 order, the record in these matters are due to be filed on March 25, 2025. The record shall contain all original papers filed in the trial court, the transcripts and exhibits, if any, and a certified copy of the docket. App.R. 9(A). Therefore, that part of appellant's motion requesting this court to compel the trial court to produce the record is OVERRULED as moot.

Appellant further requests an extension of time to file a docketing statement and brief. "The purpose of the docketing statement is to determine whether an appeal will be assigned to the accelerated or the regular calendar." App.R. 3(G). Because this court has already assigned these appeals to the regular calendar, that part of appellant's motion requesting an extension of time to file a docketing statement is hereby OVERRULED as moot.

Furthermore, appellant's brief is not due until twenty (20) days from the filing of the record; therefore, that part of appellant's motion requesting an extension of time to file his brief is OVERRULED as premature.

/s/
MAGISTRATE SHIBANI SHETH-MASSACCI

TO THE CLERK: PLEAS SERVE COPIES OF THIS ORDER TO ALL COUNSEL OF RECORD AND ANY SELF-REPRESENTED PARTIES

APPENDIX J

WILLOUGHBY MUNICIPAL COURT
LAKE COUNTY, OHIO

Filed in Willoughby Municipal Court. Case# 24RB02089, File Date 01/16/2025 09:39 AM

STATE OF OHIO
PLAINTIFF(S)

VS.

DENNIS GAIL TILTON
DEFENDANT(S)

CASE NO. 24TRC04297
24CRB02089

JUDGE: MARISA L. CORNACHIO

JUDGMENT

This day, to-wit: January 14, 2025, this matter came on for trial with Defendant, Dennis Tilton, being in Court, and represented by Matthew Bangerter, Esq. The State of Ohio was represented by the Prosecutor for the City of Eastlake, Jacqueline O'Donnell, Esq. Defendant previously entered a plea of "Not Guilty" to all charges.

CASE NUMBER 24TRC04297

After being tried by a jury on January 13, 2025 and January 14, 2025, the jury finds the Defendant guilty of count one, Operating a Vehicle Under the Influence of Alcohol (M-1) in violation of R.C. 4511.19(A)(1); and the jury finds the Defendant guilty of count two, Operating a Vehicle Under the Influence of Alcohol and Refusing to Provide a Breath/Blood Sample (M-1), in violation of R.C. 4511.19(A)(2).

After being tried to the Court on count three, the Court finds Defendant guilty of lanes of travel upon roadways (MM) in violation of 4511.25(A).

CASE NUMBER 24CRB02089

After being tried by a jury on January 13, 2025 and January 14, 2025, the jury finds Defendant guilty of count one, Resisting Arrest (M-2) in violation of R.C. 2921.33(A).

The Court immediately proceeded to sentencing. The Court has considered the record, oral statements, any victim impact statement, as well as the principles of sentencing under R.C. 2929.21, and factors under R.C. 2929.22.

The court finds that counts one and two of case number 24TRC04297 merge for purposes of sentencing. Count two carries greater mandatory sentencing penalties as outlined in the statute.

IT IS HEREBY ORDERED: On Counts (1) and (2) as merged, Operating a Vehicle Under the Influence of Alcohol and Refusing to Provide a Breath/Blood

Sample, Defendant shall pay a fine of $1,000.00; Defendant shall serve one-hundred eighty days (180) days in the Lake County Jail with one-hundred fifty (150) days suspended for a total of thirty (30) days in the Lake County Jail. Defendant's driver's license is suspended for a period of three (3) years crediting back to September 8, 2024. The administrative license suspension is terminated.

On Count (3), lanes of travel upon roadways, Defendant shall pay a fine of $150.00.

On Count (1), case number 24CRB02089, Resisting Arrest, Defendant shall pay a fine of $250.00; Defendant shall serve ninety (90) days in the Lake County Jail with sixty-five (65) days suspended for a total of fifteen (15) days in the Lake County Jail. Defendant's sentence on 24CRB02089 shall run concurrent to case number 24TRC04297 for a total of thirty (30) days in the Lake County Jail.

Defendant shall be placed on community control for a period of 18 months. During the period of community control sanctions, Defendant shall follow the rules of probation, including the following specific conditions:

1. Defendant shall obtain a drug and alcohol evaluation and follow all treatment recommendations.

2. Defendant shall not consume any alcohol or drugs, including marijuana.

3. Defendant shall not operate a motor vehicle. If Defendant is granted driving privileges, Defendant shall be required to obtain restricted plates and an ignition interlock device on his vehicle.

4. Defendant shall complete an anger management course.

5. Defendant is ordered to pay restitution to Nancy Sindelar in the amount of $500.00.

A violation of this Order may result in imposition of additional sanctions, extension of community control or imposition of up to 215 days in the Lake County Jail.

Costs are assessed against Defendant, for which execution is hereby awarded.

The bond posted in this matter is released.

Following sentence, Defendant made an oral motion to stay enforcement of the sentence pending appeal. Defendant's motion is granted upon the condition that Defendant post a $100,000 supersedeas bond, cash or surety, with the Clerk of this Court. Defendant shall also be equipped with a GPS monitor, as the Defendant shall not leave Lake County, OH as a condition of bond.

The parties may appeal this decision to the Eleventh District Court of Appeals by filing a Notice of Appeal within thirty (30) days of this order.

IT IS SO ORDERED.

/s/
JUDGE MARISA L. CORNACHIO

APPENDIX K

IN THE SUPREME COURT OF OHIO

Supreme Court of Ohio Clerk of Court - Filed March 16, 2026 - Case No. 2026-0197

State of Ohio,
Plaintiff-Appellee,

v. Case No.2026-0197

Dennis G. Tilton,
Defendant-Appellant.

NOTICE REGARDING FILING OF MEMORANDUM IN SUPPORT OF JURISDICTION

Appellant Dennis G. Tilton respectfully files this Notice to clarify that the accompanying memorandum is the full Memorandum in Support of Jurisdiction in the already-initiated appeal and is not a new or separate notice of appeal.

Appellant previously filed a Notice of Appeal together with a Motion for Immediate Stay. A timely application for reconsideration under App.R. 26(A) was later denied by the Court of Appeals by Judgment Entry dated January 29, 2026. Accordingly, the time for filing the memorandum runs from that reconsideration-denial judgment entry, and the accompanying memorandum is submitted as the

operative Memorandum in Support of Jurisdiction within the applicable forty-five-day period.

Appellant includes with the memorandum the date-stamped decision denying reconsideration. This filing is intended to complete the jurisdictional appeal already initiated.

Respectfully submitted,

/s/ Dennis G. Tilton Appellant, Pro Se
Dennis G. Tilton
35673 W. Island Drive
Eastlake, Ohio 44095
(440) 527-3806
dg@taomega.us

IN THE SUPREME COURT OF OHIO

Case No.2026-0197

State Of Ohio, City of Eastlake
Plaintiff - Appellee

Vs

DENNIS G. TILTON
Defendant - Appellant

On Appeal From Court of Appeals,
11th Appellate District

C.A. Case No. 2025-L-016 & 2025-L-017

MEMORANDUM IN SUPPORT OF JURISDICTION OF APPELLANT DENNIS G. TILTON

Jacqueline M. O'Donnell, (0089184)
Prosecutor, City of Eastlake,
35150 Lakeshore Boulevard,
Eastlake, OH 44095
(jodonnell@eastlakeohio.com)

PLAINTIFF-APPELLEE OF STATE CITY OF EASTLAKE

Dennis G. Tilton, Pro se, Under duress
35673 W. Island Drive
Eastlake, OH 44095
(440) 527-3806

dg@taomega.us

DEFENDANT-APPELLANT, PRO SE

[TABLE OF CONTENTS OMITTED]

WHY THIS IS A CASE OF PUBLIC OR GREAT GENERAL INTEREST AND INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION.

This memorandum presents substantial constitutional questions and issues of public or great general interest concerning whether meaningful appellate review may be denied through circular reliance on an incomplete or disputed record posture, the displacement of preserved issues into unavailable collateral channels, and the absence of uniform procedures governing interim stay protection during jurisdictional review.

This memorandum does not ask this Court to re-try the jury case or to accept the State's narrative as a substitute for addressing the propositions of law, because a recitation of trial evidence does not answer the core statewide procedural questions presented here. At its center, this case asks whether omitted trial-process materials may be reclassified as dehors the record merely because they were not transmitted, and whether meaningful review may then be defeated by stay and divestiture mechanics before record correction can occur.

I. PROPOSITIONS OF LAW

Proposition of Law No. 1

Where an appellant timely files an application for reconsideration under App.R. 26(A)(1), the forty-five-day period to file a notice of appeal in the Supreme Court runs from the court of appeals' denial of reconsideration, and the notice must state the reconsideration dates required by S.Ct.Prac.R. 7.01(A)(5).

Proposition of Law No. 2

When an appellant's core procedural contention is that the appellate record posture was misapprehended or incomplete, a reviewing court may not defeat meaningful review by treating the absence of material from a disputed or incomplete record as dispositive of prejudice while declining to address record-integrity contentions through available record-settlement and correction mechanisms. (Ohio App.R. 9(E); Ohio App.R. 10(E).)

Proposition of Law No. 3

A reviewing court may not deny prejudice by presuming record completeness when an appellant demonstrates suppression or incomplete transmission of exculpatory evidence. Meaningful appellate review requires suppression and materiality analysis that does not rely on a disputed or incomplete record. (Brady v. Maryland; Kyles v. Whitley.)

Proposition of Law No. 4

A defendant is denied meaningful appellate review when constructive non-representation prevents the litigation and preservation of critical issues and the reviewing framework displaces those issues into collateral channels incapable of resolving record-integrity disputes. (United States v. Cronic; Ohio Crim.R. 46; R.C. 2937.011.)

Proposition of Law No. 5

A trial court violates due process and the right to present a defense when it chills or deters defense-witness testimony through threats of incarceration or monetary sanctions, particularly where the testimony concerns medical-critical facts and the court expands a limiting stipulation beyond its stated limits before the jury. (Webb v. Texas; Washington v. Texas.)

Proposition of Law No. 6

When a limiting stipulation alleged to have been executed under duress is presented to the jury without a limiting instruction and is then repeatedly relied upon to frame the State's theory, an appellate court may not dispose of resulting prejudice by formal labels while treating the stipulation as dispositive; meaningful review must account for practical trial impact, timing, and prosecutorial use. (Ohio Evid.R. 403; Ohio Evid.R. 404(B); Old Chief v. United States.)

Proposition of Law No. 7

Uniform guidance is required to avoid procedural dead

ends during Supreme Court review when mandate/execution consequences proceed while the court of appeals denies stay relief on divestiture grounds, impairing meaningful review. (Ohio App.R. 27; S.Ct.Prac.R. 7.01(D)(1).)

II. STATEMENT OF THE CASE AND FACTS

1. This jurisdictional appeal arises from the Eleventh District Court of Appeals' consolidated cases 2025-L-016 and 2025-L-017, originating from Willoughby Municipal Court Case Nos. 24TRC04297 and 24CRB02089.

2. The Willoughby Municipal Court entered judgment on Jan. 16, 2025.

3. The Eleventh District Court of Appeals issued its Opinion and Judgment Entry on Dec. 8, 2025, in Case Nos. 2025-L-016 and 2025-L-017.

4. On the first day of trial, the State referenced prior-OVI history in opening statement. At the close of that day, the State presented a stipulation to the court, and the prior OVI within twenty years was read into the record. On the second day, the court read the stipulation to the jury, the State rested, and the defense called Joanne Arnett as its first witness. The court then admonished the witness under threat of sanctions, chilling further testimony.

5. On Mar. 12, 2025, the Willoughby Municipal Court denied a Motion to Compel Disclosure of

Exculpatory Evidence Pursuant to Brady v. Maryland on the ground that the claims "are not properly before this Court."

6. Appellant timely filed an application for reconsideration pursuant to App.R. 26(A)(1) on Dec. 18, 2025.

7. On Jan. 29, 2026, the Eleventh District Court of Appeals issued a Judgment Entry denying reconsideration.

8. This notice of appeal and memorandum in support of jurisdiction are filed within forty-five days after the Jan. 29, 2026 reconsideration-denial judgment entry, consistent with S.Ct.Prac.R. 7.01(A)(5)(a).

9. Multiple motions seeking record correction and relief from suppression were filed without meaningful resolution.

10. Appellant further sought stay relief during Supreme Court review. The Eleventh District Court of Appeals cited divestiture principles under S.Ct.Prac.R. 7.01(D)(1) as limiting its authority to issue a stay once an appeal was perfected in this Court, and the Supreme Court of Ohio later declined jurisdiction in Case No. 2025-1603 on Mar. 4, 2026.

III. ARGUMENT IN SUPPORT OF JURISDICTION

A. Timeliness of notice of appeal after reconsideration.

(Proposition of Law No. 1.) Appellant's notice of appeal is timely because reconsideration was timely filed on Dec. 18, 2025, and the Eleventh District Court of Appeals denied reconsideration on Jan. 29, 2026. Under S.Ct.Prac.R. 7.01(A)(5), the forty-five-day period runs from the denial of reconsideration, and this filing was made within that period. Proposition of Law No. 1 therefore presents a threshold jurisdictional rule governing when Supreme Court review may be invoked after an App.R. 26(A) reconsideration decision.

B. The appeal presents a substantial constitutional question and issues of public or great general interest. (Propositions of Law Nos. 2–7.)

This appeal concerns a recurring procedural problem: omitted or disputed trial-process material is excluded from transmission, the resulting gap is used to narrow or recast the claim, and review is then denied because the missing material is not in the record as transmitted. That framework affects more than this case because it determines whether preserved constitutional issues may be neutralized by record posture alone rather than resolved through available correction mechanisms.

C. Prosecutorial suppression issues and record-integrity disputes require a non-circular review framework. (Propositions of Law Nos. 2 and 3.)

Appellant's filings consistently framed the core issues as prosecutorial suppression of exculpatory and medical-critical evidence, including materials bearing directly on the medical-crisis context and the

exculpatory significance of that evidence.

The State's Appellee Brief represents that State's Exhibits 4a and 4b "are the booking videos played during the trial" and "did not appear to be incomplete in any way." The Jan. 13, 2025 trial transcript, however, contains objective publication markers reflecting multiple pauses and edits during playback, including Exhibit 4a at 17:33 and 19:03, and reopening Exhibit 4b at approximately 31:55. Those markers create a dispute regarding exhibit identity and completeness when compared to the video later viewed from the appellate record.

Appellant documented that dispute in a docketed "Exhibit Review and Discrepancy Log" filed Oct. 14, 2025, comparing the transcript's publication descriptions with the video exhibit available at the 11th Dist. The filing identified discrepancies between the events described in the trial transcript and the version of the exhibit transmitted to the appellate court.

These concerns were not speculative or belated. They were raised through targeted motions and filings submitted after exhibit review and before the Dec. 8, 2025 appellate opinion. The 11th Dist. later characterized several of those filings as "moot" following its decision, but the filings themselves show that the record-integrity issue was timely presented during the pendency of the appeal.

Appellant also pursued record completion and transmission through the trial court and the 11th Dist.

The trial court docket reflects that Appellant deposited the certified transcript on May 27, 2025, yet the trial court denied entry of the transcript into the record on May 29, 2025. Appellant subsequently filed motions requesting transmission and record completion under App.R. 9 and 10, including on June 11, 2025. The 11th Dist.'s July 31, 2025 Judgment Entry later ordered the record to be supplemented after the transcript was tendered for transmission.

(a) Opening framing of priors: Trial Transcript, Jan. 13, 2025, p. 126, lines 16–17 ("when asked / and advised of his rights, and he has a prior / conviction within 20 years.")

(b) Refusal framing from "didn't understand": Trial Transcript, Jan. 13, 2025, p. 181, lines 16–23; p. 182, lines 1–3 ("Q ... did you treat it like a refusal? ... A ... he didn't understand ... asking him to submit to a chemical test. He said he didn't understand that.")

(c) In-court medical-record demand: Trial Transcript, Jan. 14, 2025, p. 335, lines 4–22 (State's cross-examination medical-record demand sequence).

The medical-context evidence is inseparable from the video-record dispute because incomplete transmission of the booking-room video can convert medical-crisis conduct into a demeanor narrative unless the defense is permitted to present the full sequence of events. According to the transcript descriptions and Appellant's discrepancy log, the omitted segment included Appellant banging on the jail cell wall and pleading for access to his urethral catheter, a medical

device upon which he depends for urination.

This evidence bears directly on materiality under Kyles v. Whitley because medical-distress behavior could reasonably be interpreted as evidence of a medical emergency rather than defiance. Urinary retention associated with prostate enlargement can cause severe pain and medical risk if untreated for extended periods. When evidence depicting a medical crisis is omitted from the transmitted exhibit, the resulting narrative can transform a medical emergency into apparent misconduct.

The disputed record posture is not offered to relitigate trial. Rather, it demonstrates that the State's narrative and the transmitted record omitted medical-critical context bearing directly on the refusal and noncooperation framing. At the same time, repeated characterizations of Appellant as "argumentative" and "uncooperative" appeared despite record indicators of medical distress, confusion, and requests for hospital transport.

The Jan. 13, 2025 transcript itself reflects a medical concern during the encounter. At Tr. p. 148, l. 24 through p. 149, l. 18, Officer McGrath testified to concern about Appellant's condition and stated he wanted EMS to determine whether Appellant needed to go to the hospital even though no visible injuries were observed.

Later testimony confirmed that injuries from a head-on collision may be non-visible and that dilated eyes may indicate concussion. (Tr. p. 197, l. 12

through p. 199, 1. 9.) The booking process itself was not completed to determine injuries or medications. When a defendant's medical condition bears directly on reliability and participation in investigative procedures, due process requires further inquiry rather than assumption. (Drope v. Missouri, 420 U.S. 162, 180–82 (1975).) On this record, the claimed refusal cannot be separated from competing evidence that Appellant requested hospital-related transport or testing and was placed into an impairment framework without the medically grounded assessment that due process requires.

The suppressed record also includes the incident-report notation, "They told me Dennis wanted hospital transport," a materially favorable statement that directly contradicts the refusal narrative. Field observations could not substitute for complete medical-context evidence, yet the State relied on subjective impressions while the medical-critical context remained incomplete in the transmitted record. (Trial Transcript, Jan. 14, 2025, p. 339 ("qualified enough" exchange).)

D. Defense counsel abandonment presents a structural due-process issue distinct from routine performance disputes. (Proposition of Law No. 4.)

Appellant's claim is not that counsel committed an isolated error, but that counsel abandonment and constructive non-representation prevented the litigation and preservation of critical issues. This produces a constructive denial of meaningful appellate review and raises a recurring constitutional concern

affecting the integrity of adjudication and the reliability of appellate outcomes.

The record reflects constructive non-representation in multiple respects: counsel undermined the defense at the outset of trial by suggesting malingering delay; failed to protect against repeated prior-OVI framing beyond the narrow stipulation purpose; failed to correct the prosecutor's medical-record demand before the jury; failed to use the EMS recess to clarify the medical-record posture and neutralize the emerging "no records" narrative; failed to confront State witnesses with the medical and incident-record context bearing on resisting-arrest and force framing; and failed to challenge the post-trial supersedeas-bond and GPS conditions that later impaired Appellant's liberty, work, and access to medical support. (Trial Transcript, Jan. 13, 2025, p. 5, lines 13–24; p. 126, lines 16–17; p. 289, lines 13–20; Trial Transcript, Jan. 14, 2025, pp. 302–303, 335, 339–341, 432–433; Judgment Entry filed Jan. 16, 2025; Bond Conditions filed Jan. 14, 2025.)

This is presented not as a routine Strickland-style dispute, but as a structural failure to preserve and litigate issues central to the record-integrity controversy itself. Where constructive non representation helps create the very posture that later defeats review, the resulting constitutional question extends beyond case-specific performance grading.

E. Witness chilling and duress-stipulation expansion present a structural trial-integrity issue. (Propositions of Law Nos. 5 and 6.)

The sequence reflected in the record is not the clean sequence later described in the Dec. 8, 2025 Opinion and Judgment Entry. The Jury Trial Assignment Order, filed Sept. 20, 2024, required trial briefs to address stipulations seven days before trial and set the brief deadline at Dec. 2, 2024. The docket then reflects "Trial Brief Of State Filed" on Jan. 8, 2025, and "Amended Trial Brief Of State Filed" on Jan. 13, 2025, the first day of trial, while the separate document titled "Stipulation of Parties" was not filed until Jan. 14, 2025. Yet when the matter arose at the end of the first trial day, after the jury had already heard that prior-OVI theme, the trial court stated, "The stipulation. I have not seen that," then reviewed the document only at that late stage and accepted it without any on-record inquiry into when it was signed, where it was signed, whether Appellant personally assented knowingly and voluntarily, or whether its scope would be limited before the jury. (Trial Transcript, Jan. 13, 2025, p. 289, lines 13–20; pp. 290–292.)

In the Dec. 8, 2025 Opinion and Judgment Entry, the court of appeals nevertheless treated the matter as though the prosecutor's opening merely stated an element and the stipulation was later entered on day two without error. That framing overlooks the actual chronology and the missing voluntariness record. Although this was not a guilty plea requiring a full Crim.R. 11 colloquy, due process still turns on personal, knowing assent to a critical waiver-like step, and constitutional rights cannot be treated as waived by counsel in a manner inconsistent with the defendant's own position. See Brookhart v. Janis, 384

U.S. 1 (1966).

The same sequence then merged with witness chilling. The State referenced the twenty-year prior in opening statement, and on the second day of trial the court read the stipulation to the jury immediately before the defense called Joanne Arnett, without a limiting instruction confining the stipulation to a narrow purpose. The court then warned the witness with threats of fines and jail if she continued recounting medical-condition facts she observed and assistance she provided. Under that sequence, the adversarial process is compromised and later prejudice review cannot be reduced to harmless-error assumptions. (Trial Transcript, Jan. 13, 2025, p. 126, lines 16–17; Trial Transcript, Jan. 14, 2025, pp. 302–303, 306–311.)

The same shut-out pattern extended beyond exhibits and witness testimony to documentary material bearing directly on the encounter itself. Appellant also sought disclosure of his driver's license containing an "under duress" notation, not as a generalized challenge to licensing, but as contemporaneous evidence of objection and non-assent to compelled roadside processes in contention with his request for superior hospital-based testing during an apparent medical crisis. Those requests were denied as not properly before the trial court and were later insulated from review through the same record/dehors framework.

F. The court of appeals' reconsideration denial frames the statewide procedural questions. (Propositions of Law Nos. 2, 3, and 4.)

This case turns on a record-definition trap. Materials used, referenced, filed, or generated in the municipal proceedings were omitted from transmission, and that omission was later used to characterize the same materials as dehors the record. In that way, the transmission failure itself became the reason review was denied. Appellant's position is not that new evidence may be added on appeal; it is that materials already part of the trial-court process cannot be transformed into dehors matter merely because the lower court failed to preserve or transmit them.

In denying reconsideration, the Eleventh District Court of Appeals applied the Matthews/Owens standard and summarized Appellant's grounds as including misapprehension of procedural posture, internal inconsistency that displaced preserved issues to other proceedings, and a prejudice analysis that assumed record completeness. The reconsideration-denial entry illustrates the circularity by stating it was "confined to matters within the record" and that "[w]ithout the items in the record, this court could not find prejudice." (Eleventh District Judgment Entry denying reconsideration filed Jan. 29, 2026.)

A self-sealing framework that denies meaningful review is further illustrated by the Willoughby Municipal Court's Mar. 12, 2025 Judgment Entry denying Appellant's Brady motion stating: "Defendant raises claims that are not properly before this Court. Wherefore, Defendant's motion is denied."

Related proceedings illustrate the no-forum problem

that arises when record-settlement and post-judgment review are routed in circles. Willoughby Municipal Court judgment entries denied post-judgment relief on jurisdiction or authority grounds. The Lake County Court of Common Pleas then dismissed on the ground it was not the sentencing court for R.C. 2953.21 relief. It recognized Cowan's municipal-court PCR jurisdiction barrier and pointed to Crim.R. 57(B) coupled with Civ.R. 60(B)(5) as a gap-filler remedy to be filed in the Willoughby Municipal Court. Nor was that fallback route a stable answer in practice, because Ohio law permits courts to recast filings by substance rather than caption. See State v. Schlee, 117 Ohio St.3d 153, 2008Ohio-545, ¶ 12; see also State v. Reynolds, 79 Ohio St.3d 158, 160 (1997). Once municipal-court PCR was foreclosed under Cowan, the fallback remained vulnerable to the same recharacterization logic, leaving no reliable forum to settle disputed record posture or extra-record constitutional claims.

G. Mandate/execution and stay-jurisdiction mechanics warrant uniform clarification. (Proposition of Law No. 7.)

Appellant further submits that the interaction between mandate/execution consequences and the availability of orderly stay relief during jurisdictional review is a recurring issue that warrants uniform statewide guidance.

This appeal is not a repetition of prior jurisdictional filings. The Supreme Court of Ohio declined jurisdiction in Case No. 2025-1603 on Mar. 4, 2026, but

that filing arose in an emergency stay posture before the Eleventh District Court of Appeals' Judgment Entry denying reconsideration filed Jan. 29, 2026, made the record-definition and prejudice circularity explicit. The present appeal is the later-triggered and operative jurisdictional vehicle under S.Ct.Prac.R. 7.01(A)(5). The problem was concrete here. After the Eleventh District Court of Appeals' Opinion and Judgment Entry filed Dec. 8, 2025, Appellant was ordered to report to jail on Dec. 9, 2025, emergency stay relief was sought immediately, and the Eleventh District Court of Appeals denied stay relief on Dec. 12, 2025. By then, earlier rulings had already treated post-trial record submissions as not properly before the trial court and outside the appellate record, and once an appeal was perfected the court of appeals treated stay authority as divested. Uniform clarification is warranted where mandate, execution, and divestiture operate faster than review of disputed record-integrity issues.

IV. CONCLUSION

Appellant respectfully requests that this Court accept jurisdiction over this appeal, which presents recurring statewide questions concerning whether omitted trial-process materials may be treated as dehors the record by force of non-transmission, whether prosecutorial mischaracterization of material facts and counsel's constructive non-representation may be insulated from review through circular assumptions of record completeness, and whether stay and divestiture mechanics may operate so quickly that meaningful review is impaired before record-integrity disputes can

be corrected.

Respectfully submitted,

/s/ Dennis G. Tilton
Dennis G. Tilton
35673 W. Island Drive,
Eastlake OH 44095
(440) 527-3806
dg@taomega.us

APPENDIX L

[Date Stamp]
FILED
COURT OF APPEALS
OCT 14 2025
CARL DIFRANCO
CLERK OF COURT
LAKE COUNTY, OHIO

Continuation Sheet Certification (if used separately):

IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT – LAKE COUNTY
Case nos. 2025-L-016 & 2025-L-017
(Consolidated)

APPELLEE OHIO v APPELLANT DENNIS G. TILTON

COVER SHEET – APPELLANT'S EXHIBIT REVIEW AND DISCREPANCY LOG

Filed by: Dennis G. Tilton, Appellant (Pro Se)
35673 W. Island Drive
Eastlake, Ohio 44095
(440) 527-3806 dg@taomega.us

SUPPLEMENT

Purpose of Submission

This document accompanies and supplements the exhibits reviewed on **October 9, 2025,** at the **Eleventh District Court of Appeals, Warren, Ohio,** under supervision of the Clerk's Office.

It is submitted to ensure the **accuracy, integrity, and completeness of the appellate record** pursuant to **Ohio App.R. 9(E) and 10(E).**

The attached **Exhibit Review Record** and **General Exhibit Discrepancy Record** identify materials presented at trial that appear inconsistent, incomplete, or otherwise divergent from the exhibits currently held by the Court of Appeals.

Appellant respectfully requests that this log be **retained with the physical exhibits** as part of the record transmitted to the judicial panel for review and determination of appeal.

Certification

I certify that the attached records were completed in good faith following the authorized review of exhibits on October 9, 2025, and accurately reflect observations made at the Warren office of the Eleventh District Court of Appeals.

Name / Title	**Signature**	**Date**
Dennis G. Tilton, Appellant (Pro Se)	/s/	Oct 17 2025
Witness / Attendee (if applicable)	/s/	Oct 13 2025

To the Clerk: Please attach this cover sheet and its accompanying discrepancy logs to the exhibit packet for cases **2025-L-016 and 2025-L-017,** to remain with the physical or digital record transmitted for judicial review.

Clerk's Acknowledgment of Receipt

Received for filing and to be attached to the exhibit packet in Case Nos. **2025-L-016 and 2025-L-017.**

Clerk / Deputy Clerk	_____	_____
Appellant (Pro Se) Dennis G. Tilton	/s/	Oct 13 2025
Witness / Attendee	/s/	Oct 13 2025

IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT – LAKE COUNTY

Case nos. 2025-L-016 & 2025-L-017 (Consolidated)

APPELLEE OHIO v APPELLANT DENNIS G. TILTON

EXHIBIT REVIEW RECORD BY APPELLANT AND WITNESS

(Prepared for October 9, 2025 viewing at the Eleventh District Court of Appeals, Warren Ohio)

This record is prepared to document the review of **State's Exhibits 4A and 4B (Booking Video)** as transmitted from Willoughby Municipal Court to the Eleventh District Court of Appeals.

It reflects the time-codes and testimony referenced during trial and provides space for the clerk and reviewer to note any discrepancy between the exhibits viewed in Warren and the versions shown to the jury during the January 2025 trial proceedings.

Segment 1 – January 13 Trial (Officer McGrath Direct Examination)

Source: Transcript pp. 177–178 (VERBATIM / SAFE)
Exhibit ID: State's Exhibit 4A
Time Markers: 18:20 – 19:03

Trial-Day Description

Portion labeled "State's Exhibit 4A." Officer states defendant still in cruiser; another inmate being processed. Officer concedes no view of defendant on screen.

Observed/Actual (Warren COA Copy)

Defendant is in frame for one minute See Segment 1 on continuation page.

Notes / Discrepancy

No defendant in frame; unrelated booking-area activity. Testimony alleging "stumble" not supported visually. Irrelevant segment.

Segment 2 – January 13 Trial

Source: Transcript p. 179 (VERBATIM / SAFE)
Exhibit ID: State's Exhibit 4B
Time Markers: 4:22 – 7:44

Trial-Day Description

Interior booking-room clip. Officer identifies general scene only. No direct identification of defendant or audio tie.

Observed/Actual (Warren COA Copy)

Not on tape

Notes / Discrepancy

Content generic; identity uncertain. Confirm whether defendant visible or audible. Leading Q by State.

Segment 3 – January 13 Trial

Source: Transcript p. 180 (VERBATIM / SAFE)
Exhibit ID: State's Exhibit 4B
Time Markers: 14:10 – 15:42

Trial-Day Description

Audio Referenced: defendant allegedly "yelling about a phone call." Officer testifies he did **not** recall hearing it at the time; acknowledged hearing only on video.

Observed/Actual (Warren COA Copy)

Not on tape 4B, passive exchange as removed to LCAD on 4a.

Notes / Discrepancy

No corroborating visual conduct; relevance limited to disputed audio.

Segment 4 – January 13 Trial

Source: Transcript p. 181 (VERBATIM / SAFE)
Exhibit ID: State's Exhibit 4B
Time Markers: 27:35 – 30:13

Trial-Day Description

Continuation of booking-room sequence; officer asserts

reading of BMV 2255 form and that defendant"refused." No visual confirmation described.

Observed/Actual (Warren COA Copy)

Not on tape but shown to jury.

Notes / Discrepancy

Verify whether BMV 2255 form reading or response audible or visible. Potential unsupported inference.

Segment 5 – January 13 Trial (Final Clip, File Freeze)

Source: Transcript pp. 181 L12 –182 L5 (VERBATIM / SAFE)
Exhibit ID: State's Exhibit 4B
Time Markers: 31:55 – 32:51

Trial-Day Description

Playback froze at 31:42; reopened and resumed at 31:55. Prosecutor's leading questions asserted that BMV 2255 was "read" and "treated as refusal." Officer merely agreed, no detail of visible content.

Observed/Actual (Warren COA Copy)

Not on tape

Notes / Discrepancy

Exchange was *leading*, allegation of "refusal" rests

solely on prosecutor's phrasing, No visual proof noted.

Additional Lines / Continuation Page

(blank space for further segment notes, discrepancies, or new timecodes discovered upon review)

Segment 1. Defendant only appears in last 1 min of tape

Segment 2: Not in Evidence on tape.

Segment 3: Not in Evidence on tape.

Segment 4: Not in Evidence on tape.

Segment 5: Not in Evidence on tape.

Certification of Exhibit Review

We hereby certify that on **October 9, 2025,** the foregoing exhibits were reviewed in person at the Eleventh District Court of Appeals, 111 High Street N.E., Warren, Ohio, under supervision of the Clerk's Office.

Any discrepancies or omissions have been noted above or on attached continuation sheets.

Role	**Name (Print)**	**Signature**	**Date**
Clerk/ Deputy Clerk	_____	_____	_____

Appellant/ Defendant (Pro Se) Tilton	Dennis G Tilton	/s/	Oct 13 25
Witness/ Attendee	Joanne B Arnett	/s/	Oct13 2025

[DATE STAMP]
FILED
COURT OF APPEALS
OCT 14 2025
CARL DIFRANCO
CLERK OF COURT
LAKE COUNTY, OHIO