

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-210384 TRIAL NO. B-2005339
Plaintiff-Appellant,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
TIMOTHY WILLIAMS,	:	
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.*

FACTS AND PROCEDURE

Following a bindover from the juvenile court to the adult court, defendant-appellant Timothy Williams pleaded guilty to involuntary manslaughter with a firearm specification and tampering with evidence. On appeal, Williams raised two assignments of error. First, he argued that the adult court lacked jurisdiction to convict him of tampering with evidence because that charge was not included in the juvenile complaint, not considered by the juvenile court at the bindover hearing, and not properly transferred to the adult court. Second, he claimed that he received ineffective assistance of counsel because his attorney failed to challenge the adult court's jurisdiction over that charge. We sustained his first assignment of error and reversed his conviction, but the Supreme Court of Ohio reversed our opinion in *State v. Williams*, Slip Opinion No. 2024-Ohio-1433, and remanded the case to this court to address the remaining assignment of error.

ASSIGNMENT OF ERROR

In his second assignment of error, Williams argues that he received ineffective assistance of counsel in violation of his constitutional rights under the Sixth Amendment to the United States Constitution and Article I, Section 16 of the Ohio Constitution. In his supplemental brief on remand from the Supreme Court of Ohio, Williams clarifies that he received ineffective assistance because his attorney failed to argue that his tampering-with-evidence charge is not rooted in his juvenile charges.

To establish a claim of ineffective assistance of counsel, Williams must show that “(1) counsel’s performance was deficient’ and (2) ‘the deficient performance prejudiced [his] defense.’ ” *State v. Bell*, 1st Dist. Hamilton No. C-210494, 2023-Ohio-1010, ¶ 9, quoting *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). To prove that his counsel’s assistance was deficient, there must be an “‘actual error on the part of appellant’s trial counsel.’ ” *State v. McCoy*, 11th Dist. Portage No. 2022-P-0059, 2023-Ohio-1539, ¶ 18, quoting *State v. McCaleb*, 11th Dist. Lake No. 2002-L-157, 2004-Ohio-5940, ¶ 92.

In *Williams*, the Supreme Court of Ohio reaffirmed its holding in *State v. Burns*, 170 Ohio St.3d 57, 2022-Ohio-4606, 208 N.E.3d 801, and held

[A] defendant who was a juvenile when he committed an offense may be charged for and convicted of that offense in adult court even though a charge for the offense was not brought in juvenile court and considered in a bindover proceeding, if the charge is rooted in the same acts that were the subject of the juvenile complaint.

Williams, Slip Opinion No. 2024-Ohio-1433, at ¶ 1.

Williams argues that his attorney was ineffective for failing to argue that his tampering-with-evidence charge was not rooted in the murder and felonious-assault charges

considered by the juvenile court as part of its transfer of jurisdiction to the adult court. He points to the fact that the murder and sale of the gun used in the murder occurred two days apart. He stresses that the evidence for his tampering-with-evidence charge does not overlap or interlock with the evidence of his murder or felonious-assault charges. He emphasizes the fact that tampering with evidence is a “fundamentally different and unrelated offense.” Finally, he asserts that tampering with evidence is often committed independent of the underlying crime.

But the Supreme Court of Ohio held otherwise in *Williams*. The court explained that the juvenile complaint alleged that Williams shot his victim with a 9 mm handgun, an act that would constitute murder and felonious assault if committed by an adult. *Id.* at ¶ 24. While the juvenile complaint made no mention of tampering with evidence, the Supreme Court of Ohio reasoned that “the evidence presented at the bindover hearing demonstrates that the tampering-with-evidence charge arose from the murder that was the basis of the juvenile complaint, because it shows that Williams sold the 9 mm gun that was used to commit the murder.” *Id.* at ¶ 25. Therefore, the Supreme Court of Ohio held that the adult court had jurisdiction over his tampering-with-evidence charge because it was “rooted in the acts for which he was bound over.” *Id.* at ¶ 26.

Williams does not address the Supreme Court of Ohio’s determination that his tampering-with-evidence charge is rooted in his juvenile charges. And “[a]s an intermediate appellate court, we are, of course, bound to follow Supreme Court precedent.” *State v. Hernandez*, 2020-Ohio-5496, 163 N.E.3d 1175, ¶ 13 (1st Dist.). Because the Supreme Court of Ohio determined that the adult court properly exercised its jurisdiction over Williams when it convicted him of tampering with evidence, we overrule his second assignment of error.

CONCLUSION

For the foregoing reasons, we overrule Williams's second assignment of error and affirm his conviction.

The court further orders that 1) a copy of this Judgment with a copy of the Opinion attached constitutes the mandate, and 2) the mandate be sent to the trial court for execution under App.R. 27.

BOCK, P.J., ZAYAS and BERGERON, JJ.

To the clerk:

Enter upon the Journal of the Court on 6/18/2024 per Order of the Court.

By:_____
Administrative Judge