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

STATE OF OHIO,	:	APPEAL NO. C-250619 TRIAL NOS. C/25/CRB/16579/A/B
Plaintiff-Appellee,	:	
vs.	:	
JAMIE TORAN,	:	*JUDGMENT ENTRY*
Defendant-Appellant.	:	

This cause was heard upon the appeal, the record, and the briefs.

For the reasons set forth in the Opinion filed this date, the judgments of the trial court are affirmed.

Further, the court holds that there were reasonable grounds for this appeal, allows no penalty, and orders that costs be taxed under App.R. 24.

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.

To the clerk:

Enter upon the journal of the court on 9/25/2026.

Pursuant to App.R. 30, the clerk is directed to send all parties, or their counsel if represented, a copy of the court's judgment and note such action on the docket.

By: Jennifer Hunsley
Administrative Judge

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Plaintiff-Appellee,	:	
vs.	:	
JAMIE TORAN,	:	
Defendant-Appellant.	:	*O P I N I O N*

Criminal Appeal From: Hamilton County Municipal Court

Judgments Appealed From Are: Affirmed

Date of Judgment Entry on Appeal: September 25, 2026

Connie Pillich, Hamilton County Prosecuting Attorney, and *Phillip R. Cummings,* Assistant Prosecuting Attorney, for Plaintiff-Appellee,

Cochran Legal, LLC, and *Colin P. Cochran*, for Defendant-Appellant.

NESTOR, Judge.

{¶1} A gas station security video captured defendant-appellant Jamie Toran as he threw a mother and her baby from his van. Toran appeals his resulting convictions for misdemeanor assault. Toran presented one assignment of error asserting his trial counsel was ineffective for failing to sufficiently assert self-defense.

{¶2} Because any self-defense claim Toran's trial counsel could have raised would have been futile, we overrule Toran's sole assignment of error and affirm the trial court's judgments.

I. Factual and Procedural History

{¶3} Toran was convicted of two counts of first-degree misdemeanor assault, in violation of R.C. 2903.13(A). Both the prosecuting witness, M.W., and Toran testified at the bench trial offering largely consistent stories of the evening's events.

{¶4} On September 20, 2025, M.W. was DoorDashing with her 18-month-old daughter in the backseat. Around 11:00 p.m., her car broke down on the side of the highway. Toran pulled over to render aid.

{¶5} Toran offered to take M.W. to get gas, and M.W. accepted his offer. She and her child got in Toran's car. They left M.W.'s car on the side of the highway.

{¶6} The trio then went to a Speedway and purchased gas to take back to M.W.'s car. They returned and refueled the car, but it did not start. Toran then tried to jump the car, which also failed.

{¶7} Toran, M.W., and the baby left the car once again. M.W. testified that Toran offered to take her back to Speedway but stopped at a random house instead. Toran testified that he stopped at a friend's house to get money to fill his own tank with gas.

{¶8} M.W. testified that at this point, she began to panic, and asked Toran to

take her back to her car. At this, she stated that Toran became angry, though she admitted her memory of the events "kind of starts to get blurry when things started to escalate." Toran testified that it appeared M.W. was "tripping" or "on something."

{¶9} Toran testified that he lent M.W. his cellphone, which she used to make a few calls. M.W. denied ever having possession of or using the cellphone.

{¶10} The evening culminated when the three returned to the Speedway. M.W. testified that she immediately began to gather her things, and her baby, and started to get out of the car. Concurrently, Toran accused M.W. of stealing his cellphone. M.W. maintains that she never had Toran's cellphone.

{¶11} Surveillance video from the Speedway was admitted into evidence. The video shows Toran pulling M.W. out of the car while she is holding her baby and throwing M.W. and the baby to the ground. M.W. testified that as Toran yanked her out of the car she was still collecting her belongings.

{¶12} Toran stated that he forcibly removed her from the car because she was "fiddling through [Toran's] stuff." Toran maintained that M.W. stole his phone, which he never got back.

{¶13} Toran admitted to punching M.W. but stated that she hit him first.

{¶14} The video shows Toran pulling M.W. out of the car while she is holding her baby, and Toran throwing M.W. and the baby to the concrete. The State admitted photos of M.W. and her baby into evidence which show significant bruising on the baby's forehead, and a cut on M.W.'s cheek.

{¶15} Toran drove away from the scene and was later arrested.

{¶16} At a bench trial, the trial court found Toran guilty of two counts of misdemeanor assault and sentenced him to 180 days on each to run concurrently.

{¶17} Toran timely appealed.

{¶18} Despite Toran's attorney failing to raise self-defense, the trial judge alluded to self-defense during sentencing, stating, "I can't even really consider your self-defense because there was [unintelligible]." This statement is significant as the only assignment of error raised on appeal is that Toran's counsel was ineffective for failing to raise self-defense.

II. Analysis

{¶19} In his sole assignment of error, Toran argues that he received ineffective assistance of counsel when his trial counsel failed to raise the affirmative defense of self-defense.

A. Assignment of Error

{¶20} "Ineffective assistance of counsel claims invoke a two-prong analysis." *State v. Sharkey*, 2025-Ohio-5117, ¶ 11 (1st Dist.). First, a defendant must show that their counsel's performance was deficient, and second, that the deficiency was prejudicial. *Id.*, citing *Strickland v. Washington*, 466 U.S. 668, 687-688 (1984).

{¶21} A defendant proves deficient performance by showing that counsel's performance fell below an "objective standard of reasonableness." *Id.* at ¶ 12, citing *State v. Ross*, 2024-Ohio-3117, ¶ 36 (1st Dist.), citing *Strickland* at 687-688. A defendant establishes prejudice by showing that "'there is a reasonable probability that but for counsel's unprofessional errors, the result of the proceeding would have been different.'" *Id.*, quoting *Ross* at ¶ 37. A failure to make a showing on either prong is fatal, and if a defendant fails to make the requisite showing on one prong, the court need not review the other prong. *Sharkey* at ¶ 13, citing *Strickland* at 697.

{¶22} When analyzing the first prong of *Strickland*, whether counsel's performance was deficient, courts "'must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance.'" *State v.*

Daniels, 2018-Ohio-1701, ¶ 23 (1st Dist.), quoting *Strickland* at 689. "The defendant must overcome the presumption that . . . the challenged action might be considered sound trial strategy." *Id.*, citing *Strickland* at 689. The mere fact that counsel's strategy looks questionable in hindsight does not support an ineffective assistance of counsel claim. *State v. Thomas*, 2025-Ohio-1343, ¶ 49 (1st Dist.), citing *State v. Hughkeith*, 2023-Ohio-1217, ¶ 103 (8th Dist.).

{¶23} Toran argues that his counsel was ineffective for failing to raise a self-defense claim at trial. To prevail on a self-defense claim, Toran would have had to show that "(1) [he] was not at fault in creating the altercation; (2) [he] had reasonable ground to believe that [he] was in imminent danger of bodily harm; and (3) the only way to protect [himself] from the danger was using force and [he] did not use more force than was reasonably necessary to defend [himself] against the imminent danger of bodily harm." *State v. Nichols*, 2025-Ohio-1515, ¶ 24 (1st Dist.), citing *State v. Ridley*, 2022-Ohio-2561, ¶ 15 (1st Dist.).

{¶24} Surveillance video shows Toran pulling M.W. out of the car and throwing her and her baby to the concrete. M.W. claimed she was gathering her things (and her baby) from the car. Toran claimed that M.W. was stealing his possessions. Either way, Toran admits to forcibly removing M.W. from the car and punching her. This initiation of physical force defeats the assertion that Toran was not at fault in creating the situation that led to the affray.

{¶25} Even if M.W. hit Toran first, as he claims, Toran's response was disproportionate. Throwing a mother who is *holding her 18-month-old baby* onto concrete, which resulted in significant bruising on the baby's forehead and a cut on M.W.'s cheek, demonstrates unreasonable, excessive force. *See State v. Macklin*, 2011-Ohio-87, ¶ 28 (8th Dist.).

{¶26} "'The failure to do a futile act cannot be the basis for a claim of ineffective assistance of counsel, nor could such a failure be prejudicial.'" *State v. Ward*, 2026-Ohio-838, ¶ 36 (8th Dist.), quoting *State v. Knox*, 2013-Ohio-1662, ¶ 20 (8th Dist.). "'Failure to assert an unviable defense does not constitute ineffective assistance.'" *Id.*, quoting *State v. Davis*, 2021-Ohio-4015, ¶ 26 (8th Dist.).

{¶27} As any self-defense claim could not have prevailed, Toran's trial counsel was not ineffective for failing to raise it.

{¶28} Accordingly, we overrule appellant's sole assignment of error.

III. Conclusion

{¶29} Toran initiated physical force and threw a mother holding an 18-month-old baby onto concrete at a gas station. Trial counsel elected not to pursue a theory of self-defense. We hold that as any self-defense claim could not have prevailed counsel was not ineffective for failing to raise it. We overrule the sole assignment of error and affirm the trial court's judgments.

Judgments affirmed.

BOCK, P.J., and **MOORE, J.**, concur.