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

STATE OF OHIO,	:	APPEAL NO. C-260085 TRIAL NO. C/25/CRB/8916
Plaintiff-Appellee,	:	
vs.	:	
MARK CORNIST,	:	*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 judgment of the trial court is 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 10/9/2026.

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 Hensley
Administrative Judge

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Plaintiff-Appellee,	:	
vs.	:	*O P I N I O N*
MARK CORNIST,	:	
Defendant-Appellant.	:	

Criminal Appeal From: Hamilton County Municipal Court

Judgment Appealed From Is: Affirmed

Date of Judgment Entry on Appeal: October 9, 2026

Connie Pillich, Hamilton County Prosecuting Attorney, and *Verjine V. Adanalian,* Assistant Prosecuting Attorney, for Plaintiff-Appellee,

Baum Law, LLC, and *Correna Kuhl*, for Defendant-Appellant.

KINSLEY, Presiding Judge.

{¶1} Defendant-appellant Mark Cornist was convicted by the Hamilton County Municipal Court of assault, a first-degree misdemeanor. He appeals, arguing that his conviction was not supported by sufficient evidence and that he was denied the effective assistance of counsel. After reviewing the record, we disagree and affirm Cornist's conviction.

Background

{¶2} The charge against Cornist arose from a physical altercation that occurred between Cornist and his uncle, M.C., on April 9, 2024. Nine days later, on April 18, 2024, Cornist was charged with assault in the case numbered C/24/CRB/6390. That case, however, was dismissed on May 6, 2025. The State refiled the charge three days later in the case numbered C/25/CRB/8916.

{¶3} The trial court conducted a bench trial on the refiled charge on February 2 and 9, 2026. M.C. was the first to testify. According to M.C., he went to the Park Place restaurant on the evening of April 9, 2024 with his wife, where he saw his brother and niece. While he was there, M.C. engaged in a heated conversation with his brother, which was later joined by M.C.'s niece. The situation escalated, and M.C.'s brother and niece were asked to leave.

{¶4} M.C.'s family members then called him about the incident. When M.C. got a call from his mother, he stepped outside the restaurant to answer it. According to M.C., he saw Cornist standing near the bushes. Cornist approached him, said "Unc, you gotta get it," and attacked him with punches and kicks. Cornist then ran off, leaving M.C. with a cut on his left eye, scratches and swelling on his forehead, and bruises on his nose and face.

{¶5} M.C. went to the Forest Park Police Department that night to press

charges against Cornist and then to the hospital for stitches. At the police station, M.C. told an officer that he was certain that Cornist was the one that attacked him. An officer photographed M.C.'s injuries, and the pictures were admitted into evidence.

{¶6} Officer Harold Johnson, a Forest Park police officer, also testified about the events of April 9, 2024. While on routine patrol, Johnson received a call that a person had arrived at the police station to file charges. When Johnson arrived at the station, he spoke to M.C., who explained that he had been attacked by his nephew at Park Place. Johnson photographed M.C.'s injuries, but did not go to Park Place to obtain surveillance footage or conduct any additional investigation.

{¶7} Cornist testified that he was not at Park Place the night of the incident. Instead, he claimed to be at his grandmother's house with his two-year-old son, where he had been since 4:00 p.m. on April 9. Asked about why his grandmother was not present in court to confirm his alibi, Cornist testified that she was too ill but was available by FaceTime if needed. Cornist further stated that he was not involved in the fight, had no reason to attack M.C., and was unaware of the verbal altercation that occurred between his father and M.C. until the following day. He vehemently denied assaulting his uncle.

{¶8} Following the presentation of evidence, the trial court found Cornist guilty of assault. In doing so, it explicitly determined that M.C. was a credible witness. The trial court sentenced Cornist to 90 days in the Hamilton County Justice Center, which he has now fully served, and denied his request for a stay pending appeal.

{¶9} Cornist appeals.

Analysis

{¶10} On appeal, Cornist raises two assignments of error. First, he argues that his conviction for assault was based on insufficient evidence. Second, he claims he

received ineffective assistance of counsel.

A. Mootness

{¶11} Before addressing the merits of Cornist's assignments of error, we address a suggestion of mootness raised by the State. In its brief, the State contended that Cornist's appeal is moot because he fully served his jail sentence without seeking a stay pending appeal in this court. The State is incorrect.

{¶12} "An appeal from a misdemeanor conviction in which the defendant has fully served the sentence before the appeal is heard is moot unless the defendant can show that the sentence was served involuntarily or will result in an ongoing collateral disability." *State v. Henderson*, 2024-Ohio-2312, ¶ 17 (1st Dist.). "A defendant can show that he did not serve a sentence voluntarily if he sought a stay of the sentence to allow for the appeal." *State v. Simmons*, 2023-Ohio-3659, ¶ 11 (2d Dist.). The defendant need only seek a stay pending appeal from the trial court to demonstrate that he served his sentence involuntarily. *City of Cleveland Hts. v. Lewis*, 2011-Ohio-2673, ¶ 26.

{¶13} Consistent with these principles, Cornist filed a motion to stay his sentence pending appeal in the trial court. This was all Cornist was required to do. *See id*. Therefore, his appeal is not moot, and we have jurisdiction to consider it.

B. Sufficiency of the Evidence

{¶14} In his first assignment of error, Cornist argues that the evidence presented at trial was insufficient to support a conviction for assault.

{¶15} To determine whether a conviction is supported by sufficient evidence, we inquire "whether, after viewing the evidence in a light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt." *State v. Jenks*, 61 Ohio St.3d 259 (1991),

paragraph two of the syllabus; *see State v. Curry*, 2020-Ohio-1230, ¶ 11 (1st Dist.).

{¶16} To prove Cornist committed assault under R.C. 2903.13(A), the State had to present evidence that Cornist knowingly caused or attempted to cause physical harm to M.C. Cornist concedes that M.C. suffered physical harm, and the record reflects that M.C. in fact suffered extensive injuries, including bruising, swelling, and a facial cut requiring three stitches. Thus, the only question on appeal is whether Cornist is the person who assaulted M.C.

{¶17} More than sufficient evidence proved that Cornist was the assailant, as M.C. identified Cornist as the person who attacked him. M.C., Cornist's uncle, saw Cornist in the bushes outside the Park Place restaurant and recognized his voice. M.C. promptly reported Cornist as his attacker to the police. While the trial court was not required to do so for us to credit M.C.'s testimony, the trial court specifically found M.C. to be credible. Because the trial court was in the best position to observe the testimony, we see no reason to disturb that conclusion. *State v. Reynolds*, 2021-Ohio-963, ¶ 16 (1st Dist.).

{¶18} Accordingly, we overrule Cornist's first assignment of error.

C. Ineffective Assistance of Trial Counsel

{¶19} In his second assignment of error, Cornist argues that he was denied the effective assistance of counsel. More specifically, Cornist argues that his attorney performed ineffectively because his trial counsel failed to file a motion to dismiss the charges against him based on a violation of Cornist's right to a speedy trial.

{¶20} To succeed on a claim of ineffective assistance of counsel, Cornist must prove both prongs of the *Strickland v. Washington,* 466 U.S. 668, 687 (1984), ineffectiveness test by showing that (1) trial counsel's performance was deficient, and (2) the deficient performance deprived him of a fair trial. *State v. Akins*, 2024-Ohio-

1491, ¶ 45 (1st Dist.). An appellant's "failure to satisfy one prong of the *Strickland* test negates a court's need to consider the other." *Id.* "[T]o 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, 143 (1989).

{¶21} As to the deficiency prong of the *Strickland* test, Cornist argues that his counsel performed ineffectively by failing to raise a speedy trial issue. More specifically, he asserts that the delay between the filing of the April 18, 2024 complaint in the case numbered C/24/CRB/6390 and Cornist's arrest over a year later on the refiled complaint in the case numbered C/25/CRB/8916 amounts to a speedy trial violation under *Barker v. Wingo*, 407 U.S. 514 (1972). This argument necessarily requires us to consider the timeline of actions that occurred in the case numbered C/24/CRB/6390. But the record in the case numbered C/24/CRB/6390 is not before us, and we cannot rely on it in resolving Cornist's appeal. *See State v. O'Dell*, 45 Ohio St.3d 140, 142 (1989). Thus, Cornist has not established that his attorney performed deficiently.

{¶22} As to the prejudice prong of the *Strickland* test, Cornist is likewise unable to prove that he was prejudiced by counsel's performance. The record in this appeal reflects that Cornist was charged in the case numbered C/25/CRB/8916 on May 29, 2025 and arrested on June 8, 2025. Only ten days passed between the time of the complaint and Cornist's arrest, far too short a period of time to amount to a constitutional speedy trial violation. Cornist's motion to dismiss, had one been filed, would undoubtedly have been denied. *See, e.g., State v. Jones*, 2025-Ohio-3297, ¶ 14 (1st Dist.) (discussing that delays of nine and 11 months are sufficient to trigger constitutional speedy trial analysis). Thus, counsel's failure to file the motion to

dismiss did not amount to ineffective assistance of counsel.

{¶23} Because Cornist cannot prove either prong of the *Strickland* test, his second assignment of error is overruled.

Conclusion

{¶24} Sufficient evidence supported Cornist's assault conviction, and Cornist was not deprived of the effective assistance of trial counsel. We accordingly overrule Cornist's assignments of error and affirm the judgment of the trial court.

Judgment affirmed.

CROUSE and **NESTOR, JJ.,** concur.