

[Cite as *State v. Williamson*, 2017-Ohio-4192.]

# Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT  
COUNTY OF CUYAHOGA

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JOURNAL ENTRY AND OPINION  
No. 105320

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**STATE OF OHIO**

PLAINTIFF-APPELLEE

vs.

**MICHAEL WILLIAMSON**

DEFENDANT-APPELLANT

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**JUDGMENT:  
REVERSED; REMANDED**

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Criminal Appeal from the  
Cuyahoga County Court of Common Pleas  
Case No. CR-01-406972-ZA

**BEFORE:** E.A. Gallagher, J., Keough, A.J., and Boyle, J.

**RELEASED AND JOURNALIZED:** June 8, 2017

**FOR APPELLANT**

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**ATTORNEYS FOR APPELLEE**

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EILEEN A. GALLAGHER, J.:

{¶1} Defendant-appellant Michael Williamson appeals the denial of his application for DNA testing in the Cuyahoga County Court of Common Pleas. For the following reasons, we reverse and remand.

### **Facts and Procedural Background**

{¶2} In 2001, Williamson was convicted of 12 counts of rape in violation of R.C. 2907.02 and was sentenced to 12 consecutive life terms. This court affirmed his convictions in *State v. Williamson*, 8th Dist. Cuyahoga No. 80982, 2002-Ohio-6503.<sup>1</sup>

{¶3} On November 23, 2016, Williamson filed an application for DNA testing pursuant to R.C. 2953.71 through 2953.81. On December 9, 2016 the trial court denied Williamson’s motion as “untimely filed.”

### **Law and Analysis**

{¶4} R.C. 2953.71 through 2953.81 govern postconviction DNA testing for eligible inmates. R.C. 2953.73(A) provides that an eligible inmate who wants to request DNA testing pursuant to R.C. 2953.71 to 2953.81, must submit an application for DNA testing to the common pleas court that sentenced the inmate for the relevant offense. R.C. 2953.73(D) requires the trial court to “enter a judgment and order that either accepts or rejects the application and that includes within the judgment and order the reasons for the acceptance or rejection as applied to the criteria and procedures set forth in [R.C.] 2953.71 to

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<sup>1</sup>For a more detailed review of Williamson’s extensive appellate history not relevant to the present appeal, see *State v. Williamson*, 8th Dist. Cuyahoga No. 104294, 2016-Ohio-7053.

2953.81[.]” *State v. Curtis*, 12th Dist. Brown No. CA2014-10-019, 2015-Ohio-2460, ¶ 17.

{¶5} This court has held that when a trial court fails to engage in an analysis of defense theories or provide the reasons on which it relied in reaching its conclusion that the requested DNA test would not be outcome determinative under R.C. 2953.71(L), its order is insufficient. *State v. Smith*, 8th Dist. Cuyahoga No. 87937, 2007-Ohio-2369, ¶ 8. Where the trial court’s order is insufficient, we are unable to assess the appropriateness of its denial of the DNA applications. *Id.* at ¶ 9. In such instances, the judgment of the trial court must be reversed and the case remanded for the trial court to comply with R.C. 2953.71 through 2953.81. *Id.* at ¶ 10-14.

{¶6} The trial court’s denial of Williamson’s DNA testing application as “untimely” constitutes an insufficient order. *State v. Smith*, 12th Dist. Fayette No. CA2015-12-024, 2016-Ohio-5668, ¶ 32-33. The court in *Smith* explained:

[T]here are no timeliness requirements under R.C. 2953.72 through 2953.74 as to when an inmate must file an application for DNA testing. In addition, timeliness is not among the statutory criteria for acceptance or rejection of an application for postconviction DNA testing, and we have not found any case law recognizing or sanctioning timeliness as a criteria.

*Id.* at ¶ 33.

{¶7} Williamson’s sole assignment of error is sustained.

{¶8} We reverse the judgment of the trial court and remand this cause for further proceedings consistent with this decision.

It is ordered that appellant recover from appellee the costs herein taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the common pleas court to carry the judgment into execution.

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

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EILEEN A. GALLAGHER, JUDGE

KATHLEEN ANN KEOUGH, A.J., and  
MARY J. BOYLE, J., CONCUR