In the
Supreme Court of Ohio

STATE OF OHIO,	:	Case No. 2023-1204
	:	
Appellant,	:	On Appeal from the
	:	Hamilton County
v.	:	Court of Appeals,
	:	First Appellate District
QUANTEZ WILCOX,	:	
	:	Court of Appeals
Appellee.	:	Case No. C-220472

MERIT BRIEF OF *AMICUS CURIAE* OHIO ATTORNEY GENERAL DAVE YOST IN SUPPORT OF APPELLANT STATE OF OHIO

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INTRODUCTION

When police officers arrive on the scene of a shooting, they often know very little about what happened. They must quickly answer several questions: Is there an injured victim? Who was the gunman? What was the gunman's motive? An emergency exists whenever there is "an armed shooter, whose motive for and location after the shooting [are] unknown." *Michigan v. Bryant*, 562 U.S. 344, 374 (2011). And the gunman's motive is a particularly important question when determining the nature of the threat; the "scope of an emergency in terms of its threat to individuals other than the initial assailant and victim will often depend on the type of dispute involved." *Id.* at 372.

Cincinnati police officers faced just such an emergency when they received reports that someone had been shot downtown. Confronted with a pressing need to find out what type of threat might exist, a Cincinnati police officer questioned Doniesha Monroe, who witnessed the shooting, about what happened. The officer's body camera captured her responses. The body-camera video showed a visibly shaken and distraught Monroe telling the officer that her ex-boyfriend, Quantez Wilcox, had just shot her current boyfriend, Keshwan Turner. The shooting, Monroe stated, was Wilcox's latest act in a series of harassing behaviors. *See* Trial Ex.3, Body Camera Footage, 01:42–01:54.

Because Monroe did not testify at trial, Wilcox argued that the admission of her recorded statements violated his Sixth Amendment right to confront the witnesses against him. *See* Tr.529. The Confrontation Clause guarantees to defendants the right "to

be confronted with the witnesses against [them]." U.S. Const. Amend. VI. When a declarant does not testify, and cannot be cross-examined, the Confrontation Clause bars the admission of testimonial statements—that is, it bars those statements whose "primary purpose" was to create "an out-of-court substitute for trial testimony." *Ohio v. Clark*, 576 U.S. 237, 245 (2015) (quotation omitted). Statements whose primary purpose was to "enable police assistance to meet an ongoing emergency," are nontestimonial, however, and are admissible even when the original declarant does not testify. *See id.* at 244 (quotation omitted). Although a majority of the First District Court of Appeals acknowledged that many of Monroe's statements "could be viewed as addressing an ongoing emergency," *see State v. Wilcox*, 2023-Ohio-2940 ¶20 (1st Dist.) ("App.Op."), the majority nevertheless held that the trial court erred by admitting the video, *id.* at ¶23.

The First District erred. The U.S. Supreme Court has made clear that a conversation with the police can evolve over time and that a single conversation can contain both testimonial and nontestimonial statements. *Davis v. Washington*, 547 U.S. 813, 828 (2006). Courts must consider each part of a conversation individually and must exclude only *testimonial* statements. *See id.* But the First District did not do that. Rather than examine Monroe's individual statements, the appellate court looked to the "main thrust" of the body-camera video as a whole and held that the entire video should have been excluded—even those parts that the appellate court acknowledged were intended to assist the police in responding to an ongoing emergency. *Id.* at ¶¶20, 23.

The First District's Confrontation Clause error was not its only error. Because it failed to properly parse Monroe's recorded statements, the appellate court also erred when it held that the introduction of the video was not harmless. Rather than ask whether the admission of the body-camera video as a whole prejudiced Wilcox, the First District should have asked whether the admission of any *individual statements* prejudiced him. The answer to that question is no. Even assuming that some of Monroe's statements were testimonial, those statements merely repeated statements that Monroe had already made when she was responding to "police questions that could be viewed as addressing an ongoing emergency." App.Op.¶20.

The Court should now reverse. It should hold that Monroe's statements were nontestimonial and that the admission of those statements did not violate Wilcox's confrontation rights. It should further hold that, to the extent that Monroe did make any testimonial statements, the admission of those statements was harmless.

STATEMENT OF *AMICUS* INTEREST

The Attorney General is Ohio's chief law enforcement officer and "shall appear for the state in the trial and argument of all civil and criminal causes in the supreme court in which the state is directly or indirectly interested." R.C. 109.02. He is interested in a correct and consistent application of the Sixth Amendment's Confrontation Clause.

STATEMENT OF THE CASE AND FACTS

I. Quantez Wilcox shot and killed his ex-girlfriend's new boyfriend, Keshawn Turner.

Wilcox was parked in downtown Cincinnati, waiting for his ex-girlfriend Doniesha Monroe. Tr.784–85, 835. According to Wilcox at least, he was there because Monroe had asked him to pick up food and bring it to her. Tr.839. Monroe eventually approached Wilcox and began talking to him through the open driver's-side window of the car. Tr.843, 847.

While Monroe was still talking to Wilcox, Keshawn Turner, who Monroe was dating, approached the car. Tr.843–44; *see also* Tr.787. What precisely was said between Turner and Wilcox is disputed. *Compare* Trial Ex.3, Body Camera Footage 01:55–01:57 with Tr.844–49. But what is undisputed is that at some point, Wilcox grabbed a loaded gun that was sitting on the passenger seat of his car and shot Turner once in the chest. Tr.846. Turner ran away but did not make it very far; he collapsed in a nearby alley Tr.498–500, 547. Turner ultimately died of his injuries. Tr.763–64.

The police responded quickly to the shooting, but when they arrived on the scene, they knew very little about what had occurred. All they knew was that shots had been fired and that someone had been shot. Tr.532. Most significantly, they did not know where the shooter was; they knew only that there was someone armed with a gun who was at large in downtown Cincinnati. Tr.533–34. One of the responding officers therefore

questioned Monroe about what she knew about the incident, for the purpose of sharing that information with the other officers on the scene. Tr.533.

Wilcox fled after he shot Turner. As he was fleeing, he threw the gun that he had used to shoot Turner out of the passenger-side window of his car. Tr.579, 711, 750–51. But in his hurry to get away, Wilcox ran a red light. Tr.564. Several officers observed Wilcox's traffic violation and pulled him over. Tr.564–65.

Wilcox lied to the police who pulled him over and told them that he ran the red light because his brakes had failed. Tr.565, 851. While they were questioning Wilcox, the officers received a radio call that identified Wilcox as the person who had shot Turner. After asking for a description of the gunman, the officers determined that Wilcox was the same individual who had run the red light and who they currently had sitting in the back of their police cruiser. Tr.572.

When other officers questioned Wilcox about the shooting, he lied to them as well. Among other things, Wilcox denied that he had met with Monroe downtown and instead said that he was coming from Kentucky and going to the liquor store when the police had pulled him over. Tr.852.

II. A jury convicted Wilcox of murdering Turner, but the First District Court of Appeals reversed his conviction.

A grand jury indicted Wilcox on two counts of murder, two counts of felonious assault, one count of having a weapon while under disability, and one count of tampering

with evidence. Wilcox pleaded not guilty and the case proceeded to trial. *See* App.Op.¶10.

At trial Wilcox did not dispute that he fired the shot that killed Turner. Tr.864–65. He claimed, however, that he had acted in self-defense. *See id.* Turner, he claimed, had threatened him first. Tr.844–49. But while a holstered gun, for which Turner had a concealed-carry permit, was found on Turner's body, there was no evidence that Turner had used it; the gun was stored securely in its holster. Tr.547–48, 807.

As is relevant to this appeal, at trial the State introduced a video that was filmed in the moments after Wilcox shot Turner. That video was recorded by the body camera worn by the officer that questioned Monroe. In it, Monroe can be seen explaining that the shooting was not a random shooting, and that it was instead the latest in a string of events involving Wilcox. Wilcox, Monroe said, had been stalking and harassing her. *See* Trial Ex.3, Body Camera Footage, 01:42–01:54.

Because Monroe did not testify, and was therefore not available for cross-examination, the defense objected to the admission of the video on the grounds that admitting it would violate Wilcox's rights under the Confrontation Clause. *See* Tr.529, 534. Specifically, the defense objected to Monroe's statements explaining a possible motive for the shooting. *See* Tr.117–18. The trial court admitted the body-camera video over Wilcox's objection. Tr.529, 534. (Although the body-camera video was over twenty-

one minutes long, only the first eleven minutes and fifty-one seconds were played for the jury. *See* Tr.543.)

The State dismissed one of the felonious assault counts before trial, and a jury convicted Wilcox of the remaining charges. App.Op.¶10. The trial court imposed an aggregate sentence of twenty-six years to life. *Id.* at ¶11.

Wilcox appealed. On appeal, he argued in relevant part that the admission of the body-camera video violated his Sixth Amendment right to confront the witnesses against him. *See* App.Op.¶12. A majority of the First District Court of Appeals agreed. The majority held that although the video "does contain several statements in response to police questions that could be viewed as addressing an ongoing emergency," the entire video should have been suppressed because the primary purpose of the questioning documented in the video was to gather facts for a later prosecution. *Id.* at ¶¶20–21. The majority further concluded that admission of the video prejudiced Wilcox and was therefore not harmless. *Id.* at ¶¶25–29.

Judge Winkler dissented. Unlike the majority, the dissent would have held that Monroe's statements were nontestimonial. *Id.* at ¶59. Noting that the questioning "was informal, and occurred just minutes after the shooting," the dissent would have held that the primary purpose of Monroe's statements was to enable police to "appropriately respond to an ongoing emergency." *Id.*

The State appealed and the Court accepted the case for review. *See 12/12/2023 Case Announcements*, 2023-Ohio-4410.

ARGUMENT

Proposition of Law:

> *Body-camera recordings of informal police questioning of witnesses in the moments after a shooting are admissible under the Sixth Amendment's Confrontation Clause when the questions were not intended to create an out-of-court substitute for trial testimony.*

The U.S. and Ohio Constitutions separately guarantee that criminal defendants will have the right to confront witnesses against them. U.S. Const. Amend. VI; Ohio Const., Art. I, §10. In the proceedings below, however, Wilcox did not raise any claim below based on the Ohio Constitution. The Court therefore has no opportunity to consider any state constitutional claims as part of this appeal. "As a general rule, [the Court] will not consider arguments that were not raised in the courts below." *Belvedere Condominium Unit Owners' Ass'n v. R.E. Roark Cos.*, 67 Ohio St. 3d 274, 279 (1993).

As for the federal constitutional claim that Wilcox *did* raise, it fails. Although Monroe did not testify at trial, the body-camera video at issue in this case recorded only nontestimonial statements, which are admissible under the Confrontation Clause even without an opportunity for cross-examination. But even if the Court disagrees, and even if it concludes that some of the recorded statements were testimonial, any such statements represented only a small portion of the body-camera footage and the trial court's admission of those statements was harmless.

I. The First District erred when it reversed Turner's conviction on the basis that the introduction of Monroe's statements violated his rights under the Sixth Amendment's Confrontation Clause.

The First District reversed Wilcox's conviction because it believed that the admission at trial of Monroe's video-taped statements violated Wilcox's right to confront the witnesses against him. It was wrong. The Confrontation Clause bars the admission of only those statements that are testimonial—and Monroe's statements were not.

A. The Sixth Amendment's Confrontation Clause bars the admission at trial of testimonial statements made by a declarant who a defendant cannot cross-examine.

The Sixth Amendment's Confrontation Clause provides that "[i]n all criminal prosecutions, the accused shall enjoy the right ... to be confronted with the witnesses against him." U.S. Const. Amend. VI. Significantly, the confrontation right applies only to "'witnesses' against the accused—in other words, those who 'bear testimony.'" *Crawford v. Washington*, 541 U.S. 36, 51 (2004) (quotation omitted). The relevant question for purposes of the Confrontation Clause is therefore whether an out-of-court statement is "testimonial." *Id.* at 59, 68. If a statement is testimonial, then the Confrontation Clause bars its admission at trial unless the defendant had an opportunity to cross-examine the declarant. *Id.* at 53–56.

The U.S. Supreme Court's decision in *Crawford* revolutionized Confrontation Clause jurisprudence; it represented a sharp departure from the Court's previous focus on the reliability of out-of-court statements. *See id.* at 68–69; *Ohio v. Roberts*, 448 U.S. 56

(1980). But what *Crawford* did not do was provide "an exhaustive definition of 'testimonial' statements." *See Ohio v. Clark*, 576 U.S. 237, 243 (2015). It left for "another day any effort to spell out a comprehensive definition of 'testimonial.'" *Crawford*, 541 U.S. at 68. The U.S. Supreme Court returned to that question several times in the years following the *Crawford* decision. *See Davis v. Washington* and *Hammon v. Indiana*, 547 U.S. 813 (2006); *Bryant*, 562 U.S. 344; *Clark*, 576 U.S. 237. Over the course of several decisions, it identified two essential characteristics of testimonial statements.

First, testimonial statements must be formal. *See Clark*, 576 U.S. at 245. Testimony "is typically a solemn declaration or affirmation made for the purpose of establishing or proving some fact." *Crawford*, 541 U.S. at 51 (quotation and alteration omitted). A testimonial statement is therefore one that is made in a setting that is formal enough to alert a declarant to "the possible future prosecutorial use of his statements." *Bryant*, 562 U.S. at 377. The "most important instances in which the Clause restricts the introduction of out-of-court statements are those in which state actors are involved in a formal, out-of-court interrogation of a witness to obtain evidence for trial." *Id.* at 358. By comparison, a statement that is made "in an exposed, public area, prior to the arrival of emergency medical services, and in a disorganized fashion" is less likely to be testimonial. *Id.* at 366.

Second, the primary purpose of a testimonial statement must be to create an out-of-court substitute for trial testimony. *Clark*, 576 U.S. at 245 (quotation omitted). All other statements—that is, statements made for purposes *other* than creating a substitute for trial

testimony—are admissible at trial, even without cross-examination. The primary purpose of a statement must be measured objectively and must account for the perspectives of both the interrogator and the declarant. *Bryant*, 562 U.S. at 367–68. Admissible nontestimonial statements include statements made for the purpose of obtaining medical care, *State v. Arnold*, 126 Ohio St. 3d 290, 2010-Ohio-2742, syl.2, or in response to an emergency, *Clark*, 576 U.S. at 247; *Bryant*, 562 U.S. at 358; *Davis*, 547 U.S. at 822. With respect to that latter category, the U.S. Supreme Court has addressed what constitutes an ongoing emergency for purposes of the Confrontation Clause on at least four occasions. *See Clark*, 576 U.S. at 247; *Bryant*, 562 U.S. at 358; *Hammon*, 547 U.S. at 829–30; *Davis*, 547 U.S. at 822.

These Supreme Court precedents offer three guideposts for determining when statements are made for a nontestimonial purpose. For one, 911 calls are usually nontestimonial. Although conversations with a 911 dispatcher are, in some sense, an interrogation by law enforcement, "at least the initial interrogation conducted in connection with a 911 call, is ordinarily not designed primarily to establish or prove some past fact, but to describe current circumstances requiring police assistance." *Davis*, 547 U.S. at 826–27. For another, formal affidavits prepared at a crime scene, but after any threat has been neutralized, *are* testimonial. *Hammon*, 547 U.S. at 830–32. Even though they are made in a setting that is less formal than a police-station interrogation, statements made at a crime scene can be testimonial if they are neither "a cry for help nor

the provision of information enabling officers immediately to end a threatening situation." *Id.* at 832. Finally, "whether an emergency exists and is ongoing is a highly context-dependent inquiry." *Bryant*, 562 U.S. at 363. That inquiry must account for factors such as the type of weapon employed in a crime and "the type and scope of danger posed to the victim, the police, and the public." *Id.* at 371; *see id.* at 363–64; *see also Clark*, 576 U.S. at 246–47 (suspected abuse of a three-year-old child was an ongoing emergency).

The U.S. Supreme Court has also held that courts must apply the primary purpose test on a statement-by-statement basis. A nontestimonial "conversation which begins as an interrogation to determine the need for emergency assistance" can "evolve into testimonial statements … once that purpose has been achieved." *Davis*, 547 U.S. at 828 (quotation omitted). If that happens, the solution is not to exclude the entirety of the conversation. Trial courts instead must admit the nontestimonial statements and exclude only those portions of the conversation "that have become testimonial." *Id.* At 829; *Bryant*, 562 U.S. at 365–66.

B. The body-camera recording of Monroe's statements following the shooting was admissible because Monroe's statements were not made for the primary purpose of creating an out-of-court substitute for trial testimony.

The statements that Monroe made to the police in the moments after Wilcox shot Turner were informal statements made for the purpose of responding to an ongoing emergency. They were therefore nontestimonial, and the body-camera video of those

statements was admissible at Wilcox's trial—even though Monroe did not testify and Wilcox did not have an opportunity to cross-examine her.

Begin with formality or, more accurately, the lack thereof. As is clear from the body-camera video, the crime scene at which Monroe made her statements was a chaotic one, and Monroe was highly emotional at the time she spoke with the police. *See, generally,* Trial Ex.3, Body Camera Footage; *see also* Tr.531–32 (describing Monroe as "hysterical"). Rather than making a calm, composed, and formal statement, Monroe's words spilled out frantically as she recounted the events that led to the shooting. Monroe's statements in that respect were similar to the nontestimonial statements that the victim in *Bryant* made. There too the situation "was fluid and somewhat confused" and "the circumstances lacked any formality that would have alerted [the victim] to or focused him on the possible future prosecutorial use of his statements." *Bryant*, 562 U.S. at 377. It was in part the lack of formality that led the *Bryant* court to conclude that the statements in question were nontestimonial. *See id.* The lack of formality surrounding Monroe's statements should lead the Court to a similar conclusion in this case.

Monroe also made her statements for the primary purpose of helping the police respond to an ongoing emergency, not to create a substitute for trial testimony. As the officer who questioned her testified, at the time he spoke with Monroe, the police did not know much about what happened. All they knew was that someone had been shot in downtown Cincinnati. Tr.532–34. Much of the information that Monroe provided,

including the name of the person who shot Turner and the gunman's possible motive for the shooting, was information that the police needed to evaluate and respond to the threat posed by an at-large gunman. That included information about Monroe's ongoing conflicts with Wilcox. A shooting that results from a personal dispute poses a different kind of threat, after all, than one committed by an active shooter looking to indiscriminately kill as many people as possible. *See Bryant*, 562 U.S. at 372–73.

Monroe's statements were again most like the nontestimonial statements in *Bryant*. There too the police were confronted with a shooting victim and the information that they sought, including when, where, and why the shooting occurred was similar to the information that the police sought from Monroe here. *Id.* at 375–76. And, just as in *Bryant*, it did not matter that the gunman was no longer present at the scene of the crime; an "emergency does not last only for the time between when the assailant pulls the trigger and the bullet hits the victim." *Bryant*, 562 U.S. at 373–74. Finally, as in *Bryant*, the officer who questioned Monroe did not conduct a structured interrogation. He instead asked the same basic question that the officers in *Bryant* asked: "What happened?" *Compare* Trial Ex.3, Body Camera Footage 01:38–01:58 *with Bryant*, 562 U.S. at 377.

True, the officer questioning Monroe was informed part way through his conversation with her that other officers *might* have Wilcox in custody. But as the full video demonstrates, it was still not clear to him, or to Monroe, that Wilcox had been apprehended. The office told Monroe only that "I think we have him in custody maybe."

Trial Ex.3, Body Camera Footage, 06:29–31. And later in the video, the officer can be heard asking whether Wilcox had in fact been arrested; he asks, "[d]idn't they say they have him in custody? Or was that something else?" *See id.* at 11:24–31. Until it was absolutely certain that Wilcox was no longer at large, any statements that Monroe made to the police were best understood as assisting the police in identifying and apprehending him. And even after Wilcox *had* been arrested, Monroe's statements still served the purpose of confirming that the police had arrested the correct individual.

At least one of the statements that Monroe made after Wilcox had been arrested had an additional purpose: obtaining care or treatment. As is clear from the body-camera recording, Monroe was extremely emotional and distraught after Wilcox shot Turner. A second officer, who had not been involved in questioning Monroe, approached Monroe and asked her if there is "anything I can do help you" and whether Monroe had any children. Trial Ex.3, Body Camera Footage, 10:25–47. Monroe responded by telling the second officer that she was pregnant. *Id.* at 10:48–49. Neither the officer's question nor Monroe's response had the primary purpose of creating a substitute for trial testimony. The purpose of the exchange was to assist Monroe and address her personal wellbeing.

II. Even if some of Monroe's statements were testimonial, the admission of those statements was harmless error.

The Court should reverse even if it concludes that some of Monroe's statements were testimonial. The Confrontation Clause must be applied on a statement-by-statement basis and statements made at the beginning of a conversation can have a

different primary purpose than those at the end. A conversation "which begins as an interrogation to determine the need for emergency assistance" can "evolve into testimonial statements … once that purpose has been achieved." *Davis*, 547 U.S. at 828 (quotation omitted). If that happens, a trial court must exclude only "the portions of any statement that have become testimonial." *Id.* at 829; *see also Bryant*, 562 U.S. at 365–66.

Applied here, that means that, at most, any testimonial statements that Monroe made were ones that she made after the officer questioning her was informed that Wilcox was possibly in custody. The bulk of Monroe's conversation with the officer who questioned her occurred before there was any indication that Wilcox had been arrested, however. *See* Trial Ex.3, Body Camera Footage, 00:00–06:33. Monroe made only two statements of any significance after the radio call that suggested that the police had apprehended Wilcox: she responded to the interrogating officer's question asking what Wilcox was "mad about", and she told another officer, who was inquiring after her wellbeing, that she was pregnant. *See id.* at 06:24–11:51. Wilcox did not object to the admission of Monroe's statement about her pregnancy. *See* Tr.117–18. And, even if he had, that statement was not testimonial and admitting that statement was not an error that could have prejudiced him. That leaves only Monroe's explanation of the events that led to the shooting. Had Wilcox still been at large, then that statement would have also been nontestimonial; "the scope of an emergency in terms of its threat to individuals other than the initial assailant and victim will often depend on the type of dispute involved."

Bryant, 562 U.S. at 372. But once Wilcox had been apprehended, the primary purpose of any statements about the events that led to the dispute may have changed.

If it did, and if any of Monroe's statements were testimonial, the relevant question is whether Wilcox was prejudiced when the trial court admitted those statements. *See State v. LaRosa*, 165 Ohio St. 3d 346, 2021-Ohio-4060 ¶37 (The Court's review would be "incomplete" if it did not consider whether an error was harmless). He was not. Again, the only possibly testimonial statement that Monroe made came in response to the responding officer's question asking what "the other guy," meaning Wilcox, was "so mad about." Trial Ex.3, Body Camera Footage, 09:26–57. But her response to that question was cumulative to nontestimonial statements that Monroe had already made. At the beginning of her conversation with the officer, when the emergency was indisputably ongoing, Monroe explained that Wilcox had been stalking her and that he had previously broken the windows on her car. *Id.* at 01:42–55. She said largely the same thing in response to the officer's later question. *Id.* at 09:32–56. The introduction of Monroe's second statement, even if it was testimonial, added nothing new and therefore could not have prejudiced Wilcox.

The First District committed two significant errors when it concluded that Wilcox had been prejudiced by the admission of the body-camera video. First, the appellate court erred by concluding that the video was inadmissible in its entirety. It acknowledged that the video contained "several statements in response to police

questions that could be viewed as addressing an ongoing emergency," but concluded that the video should have been excluded because the "main thrust" of the video as a whole "implicate[d] the Confrontation Clause." App.Op.¶20. As discussed above, however, *see* 12, 15–16, a single conversation can contain both testimonial and nontestimonial statements and a court must exclude only "the portions of any statement that have become testimonial." *Davis*, 547 U.S. at 829.

The First District's failure to analyze Monroe's statements on a statement-by-statement basis infected its harmless error analysis as well. The court of appeals asked whether the admission of the body-camera video *as a whole* prejudiced Wilcox. *See* App.Op.¶¶24–29. But again, at least some of Monroe's statements were nontestimonial and therefore admissible. Wilcox could not have been prejudiced by the admission of those statements. The relevant question therefore should have been whether the admission of any testimonial statements prejudiced Wilcox. The First District did not ask that question.

* * *

While the Court could remand this case so that the First District can properly analyze Monroe's statements and address whether the admission of specific, individual, statements prejudiced Wilcox, the better course is for the Court to resolve those issues now. Questions of harmless error are necessarily a part of any court's review. *See LaRosa*, 165 Ohio St. 3d 346 at ¶37. And while some cases might benefit from a remand for the

purpose of considering whether an error was harmless, this is not one of them. As discussed above, even if the body-camera video contained a testimonial statement, that statement was cumulative to Monroe's other, nontestimonial, statements, which the trial court properly admitted.

CONCLUSION

For the foregoing reasons, the Court should reverse the First District's decision.

Respectfully submitted,

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I hereby certify that a copy of the foregoing Merit Brief of *Amicus Curiae* Ohio Attorney General Dave Yost in Support of Appellant was served this 1st day of February, 2024, by e-mail on the following:

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