

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

STATE OF OHIO,	:	APPEAL NO. C-190016
	:	TRIAL NO. B-180300
Plaintiff-Appellee,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
BRENDON ADAMS,	:	
	:	
Defendant-Appellant.	:	

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); 1st Dist. Loc.R. 11.1.1.

Brendon Adams appeals the judgment of the Hamilton County Common Pleas Court convicting him of forgery and theft. In a single assignment of error, Adams argues that he was denied the effective assistance of counsel because counsel failed to object to hearsay testimony and failed to call certain witnesses.

Counsel will not be deemed ineffective unless her or his performance was deficient and caused actual prejudice to the defendant. *Strickland v. Washington*, 466 U.S. 668, 687, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984); *State v. Bradley*, 42 Ohio St.3d 136, 141-142, 538 N.E.2d 373 (1989). Counsel's performance will only be considered deficient if it fell below an objective standard of reasonableness. *Strickland* at 688; *Bradley* at 142. A defendant is only prejudiced by counsel's performance if there is a reasonable probability that the outcome of the proceeding would have been different but for the deficient performance. *Strickland* at 694; *Bradley* at 142. A reviewing court

must indulge a presumption that counsel's behavior fell within the acceptable range of reasonable professional assistance. *Strickland* at 689; *Bradley* at 142.

Adams argues that counsel should have objected to several instances of hearsay in a detective's testimony. However, Adams has not identified any out-of-court statements that were offered for the truth and therefore has not identified a basis for objecting to the testimony. *See* App.R. 16(A). Consequently, we cannot say that counsel was ineffective for failing to object. Moreover, this was a bench trial, and we apply the presumption that the trial judge knew the law and considered only competent, relevant evidence. *See State v. Montgomery*, 148 Ohio St.3d 347, 2016-Ohio-5487, 71 N.E.3d 180, ¶ 90. Nothing in the record indicates that the trial court considered improper evidence.

At trial, Adams's defense was that he received the check as payment for certain work performed by him in cleaning up properties, and that he had no reason to believe the check had been drawn on a closed account. He now argues that defense counsel should have called his coworkers as witnesses to corroborate his testimony that they had performed the work he described. But there is nothing in the record to establish that these coworkers even existed. And, even if they did, defense counsel may have had valid strategic reasons for not calling them. *See State v. Conway*, 109 Ohio St.3d 412, 2006-Ohio-2815, 848 N.E.2d 810, ¶ 113. Nothing in the record indicates that testimony by the witnesses would have been favorable to Adams's defense. Therefore, Adams's claim of ineffective assistance rests on mere speculation, which is insufficient to establish ineffective assistance. *See State v. Short*, 129 Ohio St.3d 360, 2011-Ohio-3641, 952 N.E.2d 1121, ¶ 119. Consequently, we overrule the assignment of error and affirm the trial court's judgment.

Further, a certified copy of this judgment entry shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**MYERS, P.J., CROUSE and WINKLER, JJ.**

**OHIO FIRST DISTRICT COURT OF APPEALS**

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To the clerk:

Enter upon the journal of the court on February 5, 2020

per order of the court \_\_\_\_\_.

Presiding Judge