Who Frames the Case? Adhering to the Party Presentation Principle

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Few principles more clearly define who controls a lawsuit than the party presentation principle: courts decide cases on arguments presented by the parties, not arguments the court wishes the parties would have brought. And as recent decisions from both the Supreme Court of Ohio and the Supreme Court of the United States show, this principle tends to be uniform throughout the judicial system.

Take *Clark v. Sweeney* for example. On November 24, 2025, the United States Supreme Court issued a short per curiam opinion reversing a Fourth Circuit Court of Appeals decision.[1] The facts of the case, and how it got to the high Court, are peculiar. A jury convicted Jeremiah Sweeney of several crimes, including second-degree murder, for the death of a bystander during a shooting.[2] At trial, the core dispute was whether Sweeney could have fired the fatal shot given his position at the scene and the bullet's trajectory.[3]

While it appeared this case would proceed as a routine criminal trial, things soon went off script. In atypical fashion, one juror scoped out the crime scene himself, reported back to the rest of the jury, and the jury in turn alerted the court.[4] The crime-scene-curious juror was then removed, and the trial proceeded with 11 jurors – who ultimately convicted Sweeney.[5]

Sweeney later sought habeas relief for ineffective assistance of counsel, arguing that his attorney should have sought to voir dire the entire jury after the rogue juror's conduct.[6] The district court denied relief, but the Fourth Circuit reversed and ordered a new trial.[7] In doing so, it did not rely on any argument Sweeney actually made to the appellate court. Instead, it crafted its own rationale, concluding that the trial had been "marred by a 'combination of extraordinary failures from juror to judge to attorney,'" which "deprived Sweeney of his right to be confronted with the witnesses against him and his right to trial by an impartial jury."[8]

The Supreme Court rebuked that approach. It reminded the Fourth Circuit (and effectively all lower federal courts) that "[t]he parties frame the issues for decision, while the court serves as neutral arbiter of

matters the parties present."[9] Or, as the Court put it more bluntly: "courts 'call balls and strikes'; they don't get a turn at bat."[10] Because the Fourth Circuit decided the case on a theory Sweeney never advanced, its judgment could not stand under the party presentation principle.[11]

Perhaps ahead of the curve, as it was with eliminating agency deference,[12] six months before *Sweeney*, the Supreme Court of Ohio issued a similar warning to Ohio courts. In *Snyder v. Old World Classics, L.L.C.*, Justice Daniel Hawkins wrote a unanimous opinion addressing a Ninth District Court of Appeals decision that rested on a statutory question neither party raised.[13] The trial court had compelled the Snyders to arbitrate certain claims with Old World Classics.[14] On appeal, the Snyders argued that the relevant arbitration clause was void.[15] Rather than reach that issue, the Ninth District reversed on an entirely different ground: it held that the trial court erred by not holding an oral hearing on the motion to compel arbitration.[16]

The Supreme Court of Ohio accepted review to determine whether an oral hearing was required pursuant to statute.[17] After briefing and argument, the Court vacated the Ninth District's decision.[18] Its opinion was concise but direct, emphasizing that "our judicial system relies on the principle of party presentation, and courts should ordinarily decide cases based on issues raised by the parties."[19] Because the Ninth District resolved the case on a theory neither party litigated, its decision could not stand pursuant to the party presentation principle.[20]

For litigants, the practical takeaway is that *Snyder* and *Sweeney* provide quick, powerful, and easy-to-reference authority if a court raises a new issue at oral argument or in an opinion. For lower court judges, these decisions are a clear directive to stay within the boundaries the parties set.

But the story does not end there. At least one prominent jurist has argued that the party presentation principle is not absolute. Ninth Circuit Judge Patrick Bumatay recently suggested that "once a party raises a legal theory, judges may consider anything subsumed by that theory."[21] His point ties to originalism – the ever-growing and now mainstream theory of constitutional interpretation.[22] Judge Bumatay posits that, despite the party presentation principle, judges may present new originalist arguments not raised in constitutional cases because "judges are free to – and indeed must – engage with the historical understanding of the constitutional text."[23]

For a legal principle that appeared to be open and shut, the scope of party presentation, particularly in constitutional cases, may become the next fast-moving frontier for courts and litigants alike.

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[1] *Clark v. Sweeney*, No. 25-52, slip op. at 4 (2025).

[2] *Id.* at 1.

[3] *Id.*

[4] *Id.*

[5] *Id.* at 1-2.

[6] *Id.* at 2.

[7] *Id.*

[8] *Id.* at 2 (quoting *Sweeney v. Graham*, No. 22-6513, 2025 U.S. App. LEXIS 5901, at *24 (4th Cir. Mar. 13, 2025)).

[9] *Id.* (cleaned up).

[10] *Id.* (quoting *Lomax v. Ortiz-Marquez*, 590 U.S. 595, 599 (2020)).

[11] *Id.* at 4.

[12] In 2022, the Supreme Court of Ohio eliminated agency deference when it declared that "the judicial branch is *never* required to defer to an agency's interpretation of the law." *TWISM Enters., L.L.C. v. State Bd. of Registration for Prof'l Eng'rs & Surveyors*, 223 N.E.3d 371, 374 (Ohio 2022) (emphasis in original). Over two years later, the United States Supreme Court followed suit. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 396 (2024).

[13] Snyder v. Old World Classics, L.L.C., 263 N.E.3d 277, 278 (Ohio 2025).

[14] *Id.*

[15] *Id.*

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] *Id.* (cleaned up).

[20] *Id.*

[21] Judge Patrick J. Bumatay, Opening Remarks at the Federalist Society National Lawyers Convention (Nov. 2025), https://www.youtube.com/watch?v=poT1A5Z_Lm8.

[22] *Id.*

[23] *Id.*