

COURT OF APPEALS OF OHIO, EIGHTH APPELLATE DISTRICT,
CUYAHOGA COUNTY

State v. Kish

2026-Ohio-2409 · No. 115532 · Decided June 25, 2026

SUMMARY

The Ohio Eighth District Court of Appeals affirmed Kaleca Kish’s convictions for three counts of endangering children but reversed her three retaliation convictions and remanded the matter. The court addressed the competency of child witnesses, evidentiary rulings concerning hearsay and photographs, sufficiency and weight of the evidence, and sentencing issues.

CASE DETAILS

COURT	Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County
WRITING FOR THE COURT	Michael John Ryan, J.; Lisa B. Forbes, P.J.; Anita Laster Mays, J.
JURISDICTION	Court of Appeals of Ohio, Eighth Appellate District, Cuyahoga County
DECIDED	June 25, 2026
DOCKET	115532
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Kish appealed her convictions following a joint bench trial in which she was convicted of three counts of endangering children and three counts of retaliation. The trial court imposed consecutive prison terms on the child-endangering convictions and concurrent terms on the other convictions.
STANDARD OF REVIEW	Child-witness competency and evidentiary rulings are reviewed for abuse of discretion. Sufficiency of the evidence is reviewed de novo by asking whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements proven beyond a reasonable doubt. Manifest-weight review considers the record, evidence, reasonable inferences, and witness credibility to determine whether the factfinder clearly lost its way and created a manifest miscarriage of justice. Consecutive sentences are reviewed under R.C. 2953.08(G)(2), and may be overturned if the appellate court clearly and convincingly finds that the record does not support the statutory findings or that the sentence is otherwise contrary to law.

PRECEDENTIAL VALUE	Published and precedential opinion of the Ohio Court of Appeals, Eighth Appellate District.
PARTIES	Kaleca Kish v. State of Ohio

TOPICS

criminal procedure evidence sentencing appellate procedure hearsay

PRACTICE AREAS

criminal law criminal procedure evidence sentencing appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by finding the youngest and middle children competent to testify.
2. Whether sufficient evidence supported Kish's child-endangering convictions.
3. Whether the child-endangering convictions were against the manifest weight of the evidence.
4. Whether the trial court abused its discretion by admitting challenged testimony, photographs, and opinion evidence.
5. Whether the retaliation convictions were supported by sufficient evidence when the alleged retaliatory conduct occurred before Kish was indicted.
6. Whether the trial court was required to order a presentence-investigation or mitigation-of-penalty report when it imposed prison terms rather than community control or probation.
7. Whether the trial court made the findings required to impose consecutive sentences and whether the consecutive sentences were contrary to law.

HOLDINGS

1. The trial court did not abuse its discretion by finding the youngest and middle children competent to testify. The record showed that each child could receive and recall impressions of fact, communicate observations, understand the difference between truth and falsity, and appreciate the obligation to testify truthfully.
2. The trial court did not abuse its discretion by admitting the challenged testimony, photographs, and lay opinion evidence.
3. Sufficient evidence supported the three child-endangering convictions, and the convictions were not against the manifest weight of the evidence.
4. The retaliation convictions were unsupported by sufficient evidence because the alleged retaliatory conduct occurred before Kish was indicted.
5. The trial court was not required to order a presentence-investigation report or mitigation-of-penalty report because it imposed prison terms rather than community-control sanctions or probation.

6. The consecutive sentences on the child-endangering counts were not contrary to law because the trial court made the findings required by R.C. 2929.14(C)(4), incorporated them into the sentencing entry, and the record supported them.

KEY QUOTATIONS

“A child is competent to testify even if the child fails to recollect some facts or initially fails to recognize the concept of truth “so long as other answers demonstrate that the child can perceive and recall generally and understands the concept of truthfulness.””

“The State failed to present sufficient evidence to sustain the retaliation convictions.”

FACTUAL BACKGROUND

Kish and her boyfriend disciplined the children by repeatedly striking them with belts and confining them for prolonged periods in an unfinished basement without food, water, a bathroom, or comforting items. Daycare personnel observed and documented bruises and other injuries, including a swollen lip, a bruise behind an ear, injured fingers, and a possible broken nose; the children also reported being bitten by mice and spiders. Investigators learned that the children were fearful of Kish and made disclosures during forensic interviews, and the children were later diagnosed with PTSD and depression. Kish admitted to a social worker that she had been “whooping” the children.

PROCEDURAL HISTORY

The Cuyahoga County Court of Common Pleas granted Kish's Crim.R. 29 motion as to three intimidation counts, found her guilty of three child-endangering counts and three retaliation counts, and imposed an aggregate 27-month prison sentence. The Court of Appeals affirmed the child-endangering convictions, vacated the retaliation convictions for insufficient evidence, and remanded for a new judgment of conviction and sentence reflecting the vacation of those counts.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court shall issue a new judgment of conviction vacating the retaliation counts and the sentence imposed on those counts.

CASES CITED

- State v. Clark, 71 Ohio St.3d 466, 469 (1994)
- State v. Frazier, 61 Ohio St.3d 247, 250-251 (1991)
- State v. Fry, 2010-Ohio-1017, ¶ 76
- State v. Simmons, 2024-Ohio-3188, ¶ 23 (8th Dist.)
- In re J.J., 2019-Ohio-866, ¶ 24 (8th Dist.)

- State v. Spencer, 2015-Ohio-52, ¶ 56 (3d Dist.)
- State v. Bright, 2024-Ohio-2803 (8th Dist.)
- State v. Wingfield, 2019-Ohio-1644, ¶ 29 (8th Dist.)
- Solon v. Woods, 2014-Ohio-5425, ¶ 10 (8th Dist.)
- State v. Payne, 2019-Ohio-4158, ¶ 38
- State v. Centers, 2026-Ohio-451 (8th Dist.)
- State v. Silverman, 2009-Ohio-1576
- State v. Said, 71 Ohio St.3d 473 (1994)
- State v. Cassano, 2012-Ohio-4047, ¶ 21 (8th Dist.)
- Weis v. Weis, 147 Ohio St. 416, 425-426 (1947)
- State v. Boiani, 2013-Ohio-1342, ¶ 29
- State v. Davis, 2008-Ohio-2, ¶ 171
- State v. Calhoun, 2017-Ohio-8488, ¶ 34 (8th Dist.)
- State v. Wilkinson, 2014-Ohio-5791 (8th Dist.)
- State v. Peterson, 2024-Ohio-2903, ¶ 31
- State v. Mattox, 2018-Ohio-992, ¶¶ 23-24 (2d Dist.)
- State v. Jenks, 61 Ohio St.3d 259 (1991)
- State v. Hill, 2013-Ohio-717, ¶ 8 (2d Dist.)
- State v. Martin, 20 Ohio App.3d 172, 175 (1st Dist. 1983)
- State v. McCrary, 2011-Ohio-3161, ¶ 11 (10th Dist.)
- State v. Suchomski, 58 Ohio St.3d 74, 75 (1991)
- State v. Triplett, 2018-Ohio-5405, ¶ 29 (7th Dist.)
- State v. Rosa, 2013-Ohio-5867, ¶¶ 35, 41 (7th Dist.)
- State v. Faggs, 2020-Ohio-523
- State v. Hartley, 2011-Ohio-2530, ¶ 25 (1st Dist.)
- State v. Caton, 137 Ohio App.3d 742 (1st Dist. 2000)
- Cleveland Hts. v. Cohen, 2015-Ohio-1636, ¶ 27 (8th Dist.)
- Beachwood v. Hill, 2010-Ohio-3313, ¶ 21 (8th Dist.)
- State v. Hughes, 2009-Ohio-4115, ¶ 34 (3d Dist.)
- State v. Bonner, 2012-Ohio-2931, ¶ 12 (8th Dist.)
- State v. Cyrus, 63 Ohio St.3d 164 (1992)
- State v. Shephard, 2024-Ohio-2010, ¶ 26 (8th Dist.)
- State v. Jones, 2024-Ohio-1083, ¶ 12
- State v. Stiver, 2024-Ohio-65, ¶ 17 (8th Dist.)
- State v. Bonnell, 2014-Ohio-3177
- State v. Pettus, 2019-Ohio-2023, ¶ 65 (1st Dist.)
- State v. Saxon, 2023-Ohio-306, ¶ 17 (8th Dist.)

- State v. Sheline, 2019-Ohio-528, ¶ 176 (8th Dist.)
- State v. Akins, 2025-Ohio-5632, ¶ 54 (8th Dist.)
- State v. Thome, 2017-Ohio-963, ¶ 16 (8th Dist.)
- State v. Sparks, 2024-Ohio-2362, ¶¶ 18-19 (8th Dist.)
- State v. Batiste, 2020-Ohio-3673, ¶ 22 (8th Dist.)
- State v. Sexton, 2002-Ohio-3617, ¶ 67 (10th Dist.)

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