

OHIO COURT OF APPEALS, SIXTH APPELLATE DISTRICT

State v. Cortez

2025-Ohio-5736 · No. WD-25-001 · Decided December 23, 2025

SUMMARY

The Sixth District Court of Appeals affirmed David Cortez’s conviction for fourth-degree-felony domestic violence under R.C. 2919.25(A). The court held that the evidence established the victim was Cortez’s first cousin and had previously resided with him, and that the evidence was sufficient to reject his self-defense claim. The court also rejected Cortez’s manifest-weight and ineffective-assistance-of-counsel arguments.

CASE DETAILS

COURT	Ohio Court of Appeals, Sixth Appellate District
WRITING FOR THE COURT	Thomas J. Osowik; Gene A. Zmuda; Charles E. Sulek
JURISDICTION	Ohio Court of Appeals, Sixth Appellate District, Wood County
DECIDED	December 23, 2025
DOCKET	WD-25-001
DISPOSITION	affirmed
PROCEDURAL POSTURE	David Cortez appealed his conviction for felony domestic violence after the Wood County Court of Common Pleas denied his Crim.R. 29(A) motion for acquittal, the jury found him guilty, and the court sentenced him to one year of incarceration.
STANDARD OF REVIEW	For the Crim.R. 29(A) and sufficiency challenges, the court viewed the evidence in the light most favorable to the prosecution and asked whether any rational trier of fact could have found the essential elements proven beyond a reasonable doubt. Whether evidence is sufficient is a question of law. For manifest weight, the court reviewed the entire record and witness credibility to determine whether the jury clearly lost its way and created a manifest miscarriage of justice. The ineffective-assistance claim was evaluated under Strickland's deficient-performance and prejudice requirements.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals decision
PARTIES	David Cortez v. State of Ohio

TOPICS

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QUESTIONS PRESENTED

1. Whether the evidence established that A.R. was a family or household member under R.C. 2919.25(F)(1)(a)(ii), including that she was related to Cortez by consanguinity and had resided with him.
2. Whether the evidence was sufficient to support Cortez's domestic-violence conviction and to disprove his claim of self-defense beyond a reasonable doubt.
3. Whether the guilty verdict was against the manifest weight of the evidence.
4. Whether trial counsel provided ineffective assistance by allegedly failing to provide Cortez complete discovery before trial and by failing to communicate adequately.

HOLDINGS

1. The evidence was sufficient to establish that A.R. was Cortez's first cousin, a relationship by consanguinity, and that she had resided with him for approximately two weeks. A temporary living arrangement was sufficient; the statute did not require a sophisticated, indefinite, or permanent residence.
2. The trial court properly denied Cortez's Crim.R. 29(A) motion because, viewing the evidence most favorably to the prosecution, a rational trier of fact could find that Cortez knowingly struck A.R. and caused physical harm. The state also disproved self-defense beyond a reasonable doubt.
3. The conviction was not against the manifest weight of the evidence because the jury did not clearly lose its way or create a manifest miscarriage of justice in crediting the consistent testimony of the victim, eyewitness, and responding deputies, corroborated by photographs and medical records, over Cortez's unsupported testimony.
4. Cortez failed to establish ineffective assistance of counsel because his claim was based on speculation and he did not identify discovery materials or demonstrate a reasonable probability that receiving them earlier would have changed the trial's outcome.

KEY QUOTATIONS

““Reside” has been defined as “the fixed place of habitation to which the person intends to return when absent.”” (¶ 16)

“To support a claim of self-defense involving the use of nondeadly force [the type of alleged self-defense force at issue in this case], a defendant must show that (1) he was not at fault in creating the situation giving rise to the affray; (2) he has reasonable grounds to believe or an honest belief that he or she was in imminent danger of bodily harm, and (3) he did not use more force than was reasonably necessary to defend against the imminent danger of bodily harm.” (¶ 22)

“In reviewing a challenge to the sufficiency of the evidence, an appellate court views the evidence in the light most favorable to the prosecution and determines whether any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt.” (¶ 37)

FACTUAL BACKGROUND

During a family bonfire, David Cortez argued with his first cousin A.R. about a deceased relative. Cortez raised another attendee's guitar toward A.R.; after the guitar was taken from him, he struck A.R. in the face and pursued her into a home, where he grabbed, kicked, and struck her again. A.R. received emergency treatment for facial contusions and a closed head injury. Witness testimony, law-enforcement testimony, photographs, and medical records supported the prosecution's account.

PROCEDURAL HISTORY

Cortez was indicted on December 7, 2023, for domestic violence under R.C. 2919.25(A), enhanced to a fourth-degree felony based on a prior domestic-violence conviction. He was arraigned and released on an own-recognizance bond on May 9, 2024. Following a two-day jury trial commencing December 9, 2024, the trial court denied his Crim.R. 29(A) motion, the jury returned a guilty verdict, and Cortez received a one-year prison sentence. The Sixth District affirmed.

DISPOSITION

affirmed

CASES CITED

- Matter of Adoption of W.M.J., 2025-Ohio-3166, ¶ 23 (2nd Dist.)
- State v. Barnes, 2008-Ohio-2092, ¶ 22 (6th Dist.)
- State v. Yaden, 118 Ohio App. 3d 410, 415, 692 N.E.2d 1097, 1100 (1997)
- State v. McGlothan, 2014-Ohio-85, ¶ 17
- State v. Bulger, 2023-Ohio-4004, ¶ 20 (6th Dist.)
- State v. Greer, 6th Dist. Lucas No. L-22-1082, 2023-Ohio-103, ¶ 33
- State v. Paskins, 200 N.E.3d 684, 2022-Ohio-4024, ¶ 48 (5th Dist.)
- State v. Cavin, 2025-Ohio-1578, ¶ 14 (6th Dist.)
- State v. Daniel, 2023-Ohio-2800, ¶ 46
- State v. Messer, 2017-Ohio-1223, ¶ 16 (6th Dist.)
- State v. Brinkley, 2005-Ohio-1507, ¶ 39
- State v. Tenace, 2006-Ohio-2417, ¶ 37
- State v. Smith, 80 Ohio St. 3d 89, 113 (1997)
- State v. Thompkins, 78 Ohio St. 3d 380, 386-387 (1997)
- State v. McClain, 2025-Ohio-577, ¶ 22 (6th Dist.)
- State v. Gibson, 2023-Ohio-1640, ¶ 12 (1st Dist.)

- Strickland v. Washington, 466 U.S. 668, 684, 687-689, 694 (1984)
- State v. Alexander, 2023-Ohio-2708, ¶¶ 62-63 (6th Dist.)
- State v. Bradley, 42 Ohio St. 3d 136, 141-142, 146, 538 N.E.2d 373 (1989)
- State v. Wielinski, 2018-Ohio-778, 108 N.E.3d 185, ¶ 69 (6th Dist.)

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