

COURT OF APPEALS OF OHIO, SECOND APPELLATE DISTRICT,
MONTGOMERY COUNTY

State v. Skirvin

2026-Ohio-376 · No. C.A. No. 30462 · Decided February 6, 2026

SUMMARY

The Ohio Second District Court of Appeals affirmed James Michael Skirvin’s convictions arising from an assault on his daughter, a high-speed police pursuit, firearm discharges, collisions with police vehicles, and drug possession. The court rejected challenges concerning jury instructions, sufficiency and manifest weight of the evidence, and the voluntariness and mental state underlying the convictions.

CASE DETAILS

COURT	Court of Appeals of Ohio, Second Appellate District, Montgomery County
WRITING FOR THE COURT	Christopher B. Epley; Huffman; Hanseman
JURISDICTION	Ohio Court of Appeals, Second Appellate District, Montgomery County
DECIDED	February 6, 2026
DOCKET	C.A. No. 30462
DISPOSITION	affirmed
PROCEDURAL POSTURE	Skirvin appealed his convictions following a jury trial in the Montgomery County Court of Common Pleas, challenging the sufficiency and manifest weight of the evidence and the trial court's jury instructions.
STANDARD OF REVIEW	Sufficiency of the evidence is reviewed under whether, viewing the evidence in the light most favorable to the State, any rational factfinder could have found the essential elements proven beyond a reasonable doubt. Manifest-weight claims require review of the entire record, weighing evidence and credibility, with reversal warranted only in exceptional circumstances where the jury clearly lost its way and created a manifest miscarriage of justice. Jury-instruction decisions are reviewed for abuse of discretion, while whether an instruction correctly states the law is reviewed de novo. Unpreserved instructional-error claims are reviewed for plain error.

PRECEDENTIAL VALUE	published opinion
PARTIES	James Michael Skirvin v. State of Ohio

TOPICS

criminal procedure evidence standard of review appellate procedure jury selection

PRACTICE AREAS

criminal law criminal procedure appellate practice evidence

QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support Skirvin's convictions for felonious assault based on firing a shotgun toward Sergeant Cairns and Detective Samples.
2. Whether the convictions for felonious assault against Cairns and Samples were against the manifest weight of the evidence.
3. Whether the conviction for felonious assault against Officer Richardson was against the manifest weight of the evidence where Skirvin claimed he was unconscious when his truck struck the police cruisers.
4. Whether the aggravated-possession-of-drugs conviction was against the manifest weight of the evidence.
5. Whether the trial court abused its discretion by refusing to instruct the jury on aggravated menacing as an inferior-degree offense for the shooting counts.
6. Whether the trial court plainly erred by failing to provide a sua sponte blackout instruction concerning the crash into Officer Richardson's cruiser.

HOLDINGS

1. The evidence was sufficient to support the convictions under R.C. 2903.11(A)(2) because Skirvin knowingly fired a shotgun in the direction of officers who were in his path, thereby attempting to cause physical harm with a deadly weapon.
2. The convictions involving the eastbound shooting were not against the manifest weight of the evidence.
3. The conviction for felonious assault against Richardson was not against the manifest weight of the evidence; the jury reasonably could reject Skirvin's claim that he was unconscious and acted involuntarily when he drove into the police cruisers.
4. The aggravated-possession conviction was not against the manifest weight of the evidence.
5. The trial court did not abuse its discretion by refusing to instruct the jury on aggravated menacing for the shooting counts because the evidence would not reasonably support both acquittal of felonious assault and conviction of aggravated menacing.
6. The trial court did not commit plain error by failing to give a blackout instruction sua sponte.

KEY QUOTATIONS

“An instruction is “required only where the evidence presented at trial would reasonably support both an acquittal on the crime charged and a conviction upon the lesser included offense.”” (¶ 65)

“The blackout defense applies when a person commits an act while unconscious (blacked out) due to disease, injury, sleep, or heart failure.” (¶ 78)

“Skirvin could not have acted knowingly if he were unconscious.” (¶ 80)

FACTUAL BACKGROUND

After an argument with his daughter, Skirvin drove a large pickup truck into her while she sat outside a community office, causing minor injuries. He then obtained firearms, led police on a high-speed pursuit, fired a shotgun toward officers, and later drove into occupied police cruisers, severely injuring Officer Michael Richardson. A search of the truck uncovered methamphetamine, and the jury found that Skirvin knowingly possessed it.

PROCEDURAL HISTORY

A jury convicted Skirvin of four counts of felonious assault, two counts of aggravated menacing, failure to comply with a police order or signal, discharge of a firearm on or near prohibited premises, and aggravated possession of drugs, along with firearm specifications. The trial court merged several counts and specifications and imposed an aggregate prison term of 58 to 63.5 years. The Second District affirmed the judgment, summarily affirming unchallenged convictions and overruling the challenged assignments of error.

DISPOSITION

affirmed

CASES CITED

- State v. Reid, 2023-Ohio-2217 (2d Dist.)
- State v. Wilson, 2009-Ohio-525, ¶ 10 (2d Dist.)
- State v. Thompkins, 78 Ohio St.3d 380, 386-387 (1997)
- State v. Dennis, 79 Ohio St.3d 421, 430 (1997)
- State v. Martin, 20 Ohio App.3d 172, 175 (1st Dist. 1983)
- State v. Wilson, 2024-Ohio-776, ¶ 24
- State v. Peterson, 2021-Ohio-3947, ¶ 27 (2d Dist.)
- State v. Ireland, 2018-Ohio-4494, ¶ 34
- State v. Hypes, 2019-Ohio-4096, ¶ 21 (2d Dist.)
- State v. Fox, 2018-Ohio-501, ¶ 14 (10th Dist.)
- State v. Jenks, 61 Ohio St.3d 259, 272 (1991)
- State v. Jackson, 57 Ohio St.3d 29, 38 (1991)
- State v. Murphy, 2018-Ohio-3506, ¶ 16 (2d Dist.)

- State v. Mabry, 2007-Ohio-1895, ¶ 18 (2d Dist.)
- State v. Keister, 2022-Ohio-856, ¶ 44 (2d Dist.)
- State v. Rastbichler, 2014-Ohio-628, ¶ 33 (2d Dist.)
- State v. Rupert, 2024-Ohio-5027, ¶ 12 (2d Dist.)
- State v. Eastridge, 2002-Ohio-6999, ¶ 31 (9th Dist.)
- State v. Joy, 74 Ohio St.3d 178, 181 (1995)
- State v. Comen, 50 Ohio St.3d 206, paragraph two of the syllabus (1990)
- State v. Portis, 2021-Ohio-608, ¶ 46 (2d Dist.)
- State v. Fair, 2011-Ohio-4454, ¶ 65
- Blakemore v. Blakemore, 5 Ohio St.3d 217, 219 (1983)
- State v. Blanton, 2023-Ohio-89, ¶ 36 (2d Dist.)
- State v. Beatty-Jones, 2011-Ohio-3719, ¶ 20 (2d Dist.)
- State v. Deem, 40 Ohio St.3d 205, paragraph two of the syllabus (1988)
- State v. Deanda, 2013-Ohio-1722, ¶ 6
- State v. Shane, 63 Ohio St.3d 630, 632-633 (1992)
- State v. Thomas, 40 Ohio St.3d 213, paragraph two of the syllabus (1988)
- State v. Smith, 2002-Ohio-6659, ¶ 21
- State v. Creamer, 2025-Ohio-5430, ¶ 29 (2d Dist.)
- State v. Lodico, 2006-Ohio-5714, ¶ 33 (5th Dist.)
- State v. Wilson, 2022-Ohio-3763, ¶ 86 (Donovan, J., dissenting), rev'd, 2024-Ohio-776
- State v. Easley, 2008-Ohio-468, ¶ 66 (10th Dist.)
- State v. Anderson, 2021-Ohio-2316, ¶ 27 (5th Dist.)
- State v. Griffin, 1988 WL 4651, *2 (10th Dist. Jan. 19, 1988)
- State v. Cutlip, 2001 WL 687493, *7 (11th Dist. June 15, 2001)
- State v. Norris, 2015-Ohio-624, ¶ 22 (2d Dist.)
- State v. Long, 53 Ohio St.2d 91, paragraphs two and three of the syllabus (1978)

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