

INDIANA COURT OF APPEALS

Johnny R. Evans v. State of Indiana

Evans v. State · No. 25A-CR-1416 · Decided January 13, 2026

SUMMARY

The Indiana Court of Appeals reviewed Johnny R. Evans’s convictions for four counts of Level 5 felony possession of child pornography. The court reversed two convictions involving images showing uncovered chests because those images could not satisfy the statutory definition of obscenity, but affirmed two convictions involving images showing infant genitals.

CASE DETAILS

COURT	Indiana Court of Appeals
WRITING FOR THE COURT	Judge May; Judge Altice; Judge Foley
JURISDICTION	Indiana Court of Appeals
DECIDED	January 13, 2026
DOCKET	25A-CR-1416
DISPOSITION	other
PROCEDURAL POSTURE	Evans appealed from convictions entered after a bench trial, challenging the sufficiency of the evidence supporting four Level 5 felony convictions for possession of child pornography.
STANDARD OF REVIEW	For sufficiency-of-the-evidence claims, the court considers only the evidence supporting the judgment and reasonable inferences drawn from it, neither reweighing evidence nor judging witness credibility. A conviction is affirmed if substantial evidence of probative value would permit a reasonable fact-finder to conclude that the defendant was guilty beyond a reasonable doubt. The appellate court reviewed the trial court's obscenity determination for clear error.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Johnny R. Evans v. State of Indiana

TOPICS

- statutory interpretation
- evidence
- criminal procedure
- standard of review
- appellate procedure

PRACTICE AREAS

criminal law

criminal procedure

appellate practice

QUESTIONS PRESENTED

1. Whether the State presented sufficient evidence that the two images depicting exposed female chests were obscene under Indiana Code section 35-49-2-1.
2. Whether the State presented sufficient evidence that the two images depicting exposed infant genitals were obscene under Indiana Code section 35-49-2-1.
3. Whether the State presented sufficient evidence that the infant-genital images depicted sexual conduct intended to satisfy or arouse the sexual desires of any person under Indiana Code section 35-42-4-4(a)(5)(C).

HOLDINGS

1. Under the definition of sexual conduct applicable to Indiana's obscenity statute, the exhibition of uncovered female nipples is not sexual conduct. Therefore, images depicting only uncovered prepubescent female chests could not be obscene under Indiana Code section 35-49-2-1 and could not support convictions charged under Indiana Code section 35-42-4-4(d)(2), which requires the image to be obscene.
2. The State presented sufficient evidence for the trial court to determine that the two images depicting exposed infant genitals were obscene under Indiana Code section 35-49-2-1.
3. The State presented sufficient evidence that the infant-genital images were intended to satisfy or arouse the sexual desires of some person, as required by Indiana Code section 35-42-4-4(a)(5)(C).

KEY QUOTATIONS

"For purposes of the obscenity statute, however, which is found in Article 49 of Title 35 of the Indiana Code, "sexual conduct" does not include the uncovered nipples of females." (§ 13)

"Rather the obscenity determination may be based on the [fact-finder]'s viewing of the allegedly offensive matter alone." (§ 15)

"Affirmed in part and reversed in part." (§ 19)

FACTUAL BACKGROUND

Police investigated a cyber tip reporting child-sex-abuse material and obtained warrants connecting the relevant internet activity to Evans's residence and accounts. A search of Evans's residence yielded numerous electronic devices, and forensic analysis of his cellphone revealed four images of young girls: two depicting exposed infant genitals and two depicting exposed female chests and nipples. The trial court convicted Evans of possessing all four images, but the appellate court determined that the two chest-exposure images could not satisfy the statutory obscenity requirement applicable to the charged offense.

PROCEDURAL HISTORY

The State initially charged Evans with one Level 5 felony child-pornography count and two drug-related misdemeanors. After Evans withdrew a guilty plea, the State amended the information to add four child-pornography counts based on images found on his cellphone. The trial court dismissed the drug charges, acquitted Evans of the video-based count, convicted him on all four image-based counts, imposed a cumulative six-year sentence with four years suspended to probation, and denied his motion to correct error. The Court of Appeals affirmed two convictions and reversed two.

DISPOSITION

other

CASES CITED

- Powell v. State, 151 N.E.3d 256, 262-63 (Ind. 2020)
- Lewis v. State, 726 N.E.2d 836, 841 (Ind. Ct. App. 2000), trans. denied

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