

OHIO COURT OF APPEALS, THIRD APPELLATE DISTRICT

State v. Oliphant

2026-Ohio-2366 · No. 1-25-26 · Decided June 22, 2026

SUMMARY

The Ohio Third District Court of Appeals affirmed Michael L. Oliphant’s convictions and sentence arising from shootings in Allen County, Ohio. The court held that the trial court did not abuse its discretion by removing a juror who had solicited and accepted cigarettes from the defendant’s family, by giving a consciousness-of-guilt instruction, or by rejecting Oliphant’s argument that the jury’s rejection of his insanity defense was against the manifest weight of the evidence.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Ohio Court of Appeals, Third Appellate District                                                                                                                                                                                                                                                                                                                                                   |
| WRITING FOR THE COURT | William R. Zimmerman, P.J.; Mark C. Miller, J.; Juergen A. Waldick, J.                                                                                                                                                                                                                                                                                                                            |
| JURISDICTION          | Ohio Court of Appeals, Third Appellate District, Allen County                                                                                                                                                                                                                                                                                                                                     |
| DECIDED               | June 22, 2026                                                                                                                                                                                                                                                                                                                                                                                     |
| DOCKET                | 1-25-26                                                                                                                                                                                                                                                                                                                                                                                           |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                                                                          |
| PROCEDURAL POSTURE    | Defendant appealed his convictions and sentence from the Allen County Court of Common Pleas, challenging the mid-trial removal of a juror, the consciousness-of-guilt jury instruction, and the jury's rejection of his not-guilty-by-reason-of-insanity defense as against the manifest weight of the evidence.                                                                                  |
| STANDARD OF REVIEW    | The removal of a seated juror and the decision to give a particular jury instruction are reviewed for abuse of discretion. The unpreserved sufficiency challenge to the consciousness-of-guilt instruction was reviewed for plain error. The insanity-defense challenge was reviewed under the manifest-weight-of-the-evidence standard, with deference to the jury's credibility determinations. |
| PRECEDENTIAL VALUE    | Published Ohio Court of Appeals opinion                                                                                                                                                                                                                                                                                                                                                           |
| PARTIES               | Michael L. Oliphant v. State of Ohio                                                                                                                                                                                                                                                                                                                                                              |

TOPICS

jury selection

jury instructions

consciousness of guilt instructions

criminal procedure

standard of review

## PRACTICE AREAS

criminal law

criminal procedure

appellate practice

## QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by removing Juror 5 during trial and seating an alternate juror.
2. Whether the trial court abused its discretion by instructing the jury on consciousness of guilt based on Oliphant's departure from the shooting scenes and disposal of the firearm and other items.
3. Whether the jury's rejection of Oliphant's not-guilty-by-reason-of-insanity defense was against the manifest weight of the evidence.

## HOLDINGS

1. The trial court did not abuse its discretion by removing Juror 5 after discovering that the juror deliberately solicited and accepted cigarettes from members of the defendant's family while serving on the jury.
2. The trial court did not err by giving a consciousness-of-guilt instruction because sufficient evidence supported an inference that Oliphant fled and discarded the firearm and other items to avoid the consequences of the offenses, and the instruction was neutral and permissive rather than unfairly prejudicial.
3. Oliphant's convictions were not against the manifest weight of the evidence because the jury reasonably could credit the State's expert over the defense expert and conclude that Oliphant understood the wrongfulness of his conduct at the time of the offenses.

## KEY QUOTATIONS

*“Decisively, a juror’s improper contact or impairing relationship with a defendant’s family discovered mid-trial is precisely the type of bias that warrants removal.” (¶ 12)*

*“Generally, a flight instruction is “neutral in its effect” and “all but innocuous” if it advises the jury that: (1) any finding of consciousness of guilt is entirely permissive; (2) the instruction applies only if the jury first determines the defendant fled out of a consciousness of guilt; (3) the jury retains the discretion to give such evidence no weight; and (4) flight does not create a presumption of guilt.” (¶ 29)*

*“Therefore, the jury did not lose its way and create such a manifest miscarriage of justice that Oliphant’s convictions must be reversed and a new trial ordered.” (¶ 44)*

## FACTUAL BACKGROUND

On February 12, 2023, Oliphant fired a recently purchased firearm at two people outside a chiropractic office and then shot and killed a third person seated in a vehicle. He left both locations on foot and discarded the firearm, ammunition, and other items in an alley before being apprehended. During trial, a seated juror who had

previously known Oliphant's family was discovered soliciting and accepting cigarettes from family members, leading the court to remove the juror and seat an alternate. The defense presented evidence of Oliphant's extensive mental-health history and expert testimony supporting insanity, while the State presented competing expert testimony that he understood the wrongfulness of his conduct.

## PROCEDURAL HISTORY

An Allen County grand jury indicted Oliphant on three counts of felonious assault and two counts of murder, all with firearm specifications. He pleaded not guilty and not guilty by reason of insanity; the trial court found him competent to stand trial. After a jury trial, he was convicted of two felonious-assault counts, two murder counts, and the firearm specifications, with one felonious-assault count dismissed and the murder counts merged for sentencing. The trial court imposed an aggregate indefinite prison term of 36 to 39 years, up to life. Oliphant appealed, and the appellate court affirmed while remanding for correction of a clerical error in the sentencing entry.

## DISPOSITION

affirmed

## REMAND INSTRUCTIONS

The matter was remanded for the limited purpose of correcting the clerical error in the May 19, 2025 sentencing entry concerning the indefinite sentence imposed on Count One. The judgment entry also directed remand for execution of the appellate judgment for costs and issuance of the mandate.

## CASES CITED

- State v. Lane, 2022-Ohio-3775, ¶ 48 (3d Dist.)
- State v. Brown, 2012-Ohio-1848, ¶ 46 (2d Dist.)
- State v. Hopkins, 27 Ohio App.3d 196, 198 (11th Dist. 1985)
- State v. Adams, 62 Ohio St.2d 151, 157-158 (1980)
- State v. Glass, 2024-Ohio-4535, ¶ 41 (3d Dist.)
- Smith v. Phillips, 455 U.S. 209, 224-225 (1982)
- State v. Pruitt, 2003-Ohio-1882, ¶¶ 20-21 (11th Dist.)
- United States v. Spiegel, 604 F.2d 961, 967 (5th Cir. 1979)
- State v. Cunningham, 2012-Ohio-2794, ¶ 45 (2d Dist.)
- State v. Paul, 2024-Ohio-1874, ¶ 39 (9th Dist.)
- State v. Thompson, 2014-Ohio-4751, ¶ 98 (3d Dist.)
- State v. Jones, 91 Ohio St.3d 335, 338 (2001)
- State v. Sparks, 2014-Ohio-5788, ¶ 37 (9th Dist.)
- State v. Wilson, 2010-Ohio-2294, ¶¶ 8-10 (3d Dist.)
- State v. Vasquez, 2024-Ohio-860, ¶¶ 69-70, 82 (6th Dist.)

- State v. Sneed, 63 Ohio St.3d 3, 9 (1992)
- State v. Herrell, 2017-Ohio-7109, ¶ 24 (6th Dist.)
- State v. Sanchez-Sanchez, 2022-Ohio-4080, ¶ 177 (8th Dist.)
- State v. Hennigan, 2024-Ohio-404, ¶ 50 (11th Dist.)
- State v. James, 2023-Ohio-3524, ¶¶ 61-64 (11th Dist.)
- State v. Scott, 2022-Ohio-4054, ¶ 46 (11th Dist.)
- State v. Lathon, 2024-Ohio-5886, ¶ 123 (10th Dist.)
- State v. Mankin, 2020-Ohio-5317, ¶ 18 (10th Dist.)
- State v. Petty, 2012-Ohio-2989, ¶ 15 (10th Dist.)
- State v. Zachery, 2009-Ohio-1180, ¶ 8
- State v. Lewis, 2016-Ohio-1592, ¶ 28 (4th Dist.)
- State v. Byrd, 2024-Ohio-2134, ¶ 95 (7th Dist.)
- Commonwealth v. Cardarelli, 433 Mass. 427, 437 (2001)
- State v. Smith, 2009-Ohio-1497, ¶ 14 (9th Dist.)
- State v. Schmid, 2025-Ohio-14, ¶¶ 18-20 (2d Dist.)
- State v. Thompkins, 78 Ohio St.3d 380, 387 (1997)
- State v. Martin, 20 Ohio App.3d 172, 175 (1st Dist. 1983)
- State v. DeHass, 10 Ohio St.2d 230, 231 (1967)
- State v. Haller, 2012-Ohio-5233, ¶ 9 (3d Dist.)
- State v. Hunter, 2011-Ohio-6524, ¶ 119
- State v. Thomas, 70 Ohio St.2d 79, 80 (1982)
- State v. Tibbetts, 92 Ohio St.3d 146, 164-165 (2001)
- In re Starks, 2005-Ohio-1912, ¶ 15 (2d Dist.)
- State v. Baker, 2025-Ohio-2107, ¶¶ 20-23 (3d Dist.)
- State v. Armstrong, 2003-Ohio-2154, ¶ 17 (9th Dist.)
- State v. Pence, 2024-Ohio-5121, ¶ 38 (2d Dist.)
- Seasons Coal Co. v. Cleveland, 10 Ohio St.3d 77, 80 (1984)