

INDIANA COURT OF APPEALS

DeJuan Lamar Kelley v. State of Indiana

No. 25A-CR-1454 (Ind. Ct. App. June 23, 2026) · No. 25A-CR-1454 · Decided June 23, 2026

SUMMARY

The Indiana Court of Appeals held that DeJuan Kelley’s retrial after a mistrial did not violate procedural double jeopardy because the mistrial was supported by manifest necessity. The court concluded that defense counsel’s improper character-related statements during opening argument violated an order in limine, and that the trial court did not abuse its discretion in finding an admonishment inadequate. Kelley’s sentencing challenge was deemed moot because he had completed his sentence.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                        |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Indiana Court of Appeals                                                                                                                                                                                                                                                                                               |
| WRITING FOR THE COURT | Chief Judge Tavitias; Judge Foley; Judge Weissmann                                                                                                                                                                                                                                                                     |
| JURISDICTION          | Indiana Court of Appeals                                                                                                                                                                                                                                                                                               |
| DECIDED               | June 23, 2026                                                                                                                                                                                                                                                                                                          |
| DOCKET                | 25A-CR-1454                                                                                                                                                                                                                                                                                                            |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                               |
| PROCEDURAL POSTURE    | Kelley appealed his convictions and sentence following a retrial after the trial court declared a mistrial during his first jury trial. He argued that the retrial violated procedural double jeopardy and that the trial court abused its discretion in sentencing him.                                               |
| STANDARD OF REVIEW    | The grant of a mistrial is reviewed for abuse of discretion. Whether the mistrial was justified by manifest necessity is evaluated with substantial deference to the trial court, particularly its assessment of the effect of improper comments on the jury. The mootness determination is reviewed as a legal issue. |
| PRECEDENTIAL VALUE    | published                                                                                                                                                                                                                                                                                                              |
| PARTIES               | DeJuan Lamar Kelley v. State of Indiana                                                                                                                                                                                                                                                                                |

TOPICS

- double jeopardy
- criminal procedure
- mootness
- sentencing
- appellate procedure

## PRACTICE AREAS

criminal procedure

constitutional criminal procedure

evidence

appellate procedure

sentencing

## QUESTIONS PRESENTED

1. Whether the trial court's declaration of a mistrial over Kelley's objection was supported by manifest necessity such that his retrial did not violate the Double Jeopardy Clause or equivalent Indiana protections.
2. Whether Kelley's challenge to the trial court's sentencing decision remained justiciable after he completed his sentence.

## HOLDINGS

1. The trial court did not abuse its discretion in finding manifest necessity for the mistrial. Defense counsel caused the need for the mistrial by violating the order in limine and making improper character-based comments about a State witness; the trial court adequately considered an admonishment and other alternatives; and the mistrial occurred shortly after jeopardy attached, minimizing its burden.
2. Kelley's sentencing claims were moot because he had completed the custodial sentence and the court could not grant him effective relief.

## KEY QUOTATIONS

*"We, therefore, conclude that the trial court did not abuse its discretion by finding that there was a manifest necessity for declaring a mistrial. Kelley's retrial, therefore, did not subject him to procedural double jeopardy."* (14)

*"Because we cannot grant any relief to Kelley on his sentencing claims, they are moot."* (15)

## FACTUAL BACKGROUND

Kelley encountered his former girlfriend at a Bloomington gas station on June 7, 2020, and a confrontation occurred inside and outside the store. Kelley fired two shots toward a vehicle, and one bullet struck Michael Parker, who was seated in the driver's seat; Parker later died. Kelley claimed he intended only to scare his former girlfriend and did not know Parker was inside the vehicle. During opening statements at Kelley's first trial, defense counsel referred to State witness Taleah Vaught's pending felony charge and characterized her as familiar to police and frequently present at violent crime scenes.

## PROCEDURAL HISTORY

The State charged Kelley with murder, attempted murder, and carrying a handgun without a license. During opening statements at the first trial, defense counsel made statements about a State witness's pending criminal charge and alleged involvement in violent crime scenes. Over Kelley's objection, the trial court granted a mistrial, finding manifest necessity after concluding that the statements constituted improper character evidence and that an admonishment would not cure the prejudice. The court denied Kelley's motion to dismiss on double-jeopardy grounds. At the retrial, the jury acquitted Kelley of murder and attempted murder but convicted him of reckless homicide and carrying a handgun without a license; the trial court imposed an aggregate six-year

sentence. The Court of Appeals affirmed, concluding that manifest necessity justified the mistrial and that the sentencing challenge was moot because Kelley had completed his sentence.

#### DISPOSITION

affirmed

#### CASES CITED

- Brock v. State, 955 N.E.2d 195 (Ind. 2011)
- Downum v. United States, 372 U.S. 734 (1963)
- Jackson v. State, 925 N.E.2d 369 (Ind. 2010)
- Illinois v. Somerville, 410 U.S. 458 (1973)
- Wade v. Hunter, 336 U.S. 684 (1949)
- Oregon v. Kennedy, 456 U.S. 667 (1982)
- United States v. Jorn, 400 U.S. 470 (1971)
- Eichelburger v. State, 251 N.E.3d 1106 (Ind. Ct. App. 2025)
- Englehardt v. State, 218 N.E.3d 606 (Ind. Ct. App. 2023)
- Vaughn v. State, 971 N.E.2d 63 (Ind. 2012)
- Avant v. State, 528 N.E.2d 74 (Ind. 1988)
- Smith v. State, 721 N.E.2d 213 (Ind. 1999)
- Corbett v. State, 179 N.E.3d 475 (Ind. Ct. App. 2021)
- Tolliver v. State, 922 N.E.2d 1272 (Ind. Ct. App. 2010)
- Pavey v. State, 764 N.E.2d 692 (Ind. Ct. App. 2002)
- Lee v. State, 816 N.E.2d 35 (Ind. 2004)
- Irwin v. State, 744 N.E.2d 565 (Ind. Ct. App. 2001)
- McDonough Power Equip., Inc. v. Greenwood, 464 U.S. 548 (1984)
- Brown v. United States, 411 U.S. 223 (1973)
- Tyson v. State, 543 N.E.2d 415 (Ind. Ct. App. 1989)
- Lucio v. State, 907 N.E.2d 1008 (Ind. 2009)
- Dillard v. State, 755 N.E.2d 1085 (Ind. 2001)
- Owens v. State, 937 N.E.2d 880 (Ind. Ct. App. 2010)
- Jones v. State, 101 N.E.3d 249 (Ind. Ct. App. 2018)
- Bradley v. State, 649 N.E.2d 100 (Ind. 1995)
- Norton v. State, 785 N.E.2d 625 (Ind. Ct. App. 2003)
- Wright v. State, 690 N.E.2d 1098 (Ind. 1997)
- Konkle v. State, 253 N.E.3d 1068 (Ind. 2025)
- Weisheit v. State, 109 N.E.3d 978 (Ind. 2018)
- Kocielko v. State, 938 N.E.2d 243 (Ind. Ct. App. 2010)

- Hall v. State, 722 N.E.2d 1280 (Ind. Ct. App. 2000)
- Green v. United States, 355 U.S. 184 (1957)
- United States v. Dinitz, 424 U.S. 600 (1976)

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