

OHIO COURT OF APPEALS, THIRD APPELLATE DISTRICT, MARION
COUNTY

State v. Montgomery

2026-Ohio-1243 · No. 9-25-22 · Decided April 6, 2026

SUMMARY

The Ohio Third District Court of Appeals affirmed Marquis D. Montgomery’s conviction for telecommunications harassment. The court held that Montgomery waived any objection to personal jurisdiction by voluntarily appearing and pleading not guilty, and that he knowingly, intelligently, and voluntarily waived his right to counsel. The court also rejected his claims concerning standby counsel and the sufficiency of the evidence.

CASE DETAILS

COURT	Ohio Court of Appeals, Third Appellate District, Marion County
WRITING FOR THE COURT	William R. Zimmerman, P.J.; Mark C. Miller, J.; John R. Willamowski, J.
JURISDICTION	Ohio Court of Appeals, Third Appellate District, Marion County
DECIDED	April 6, 2026
DOCKET	9-25-22
DISPOSITION	affirmed
PROCEDURAL POSTURE	Montgomery appealed his telecommunications-harassment conviction and sentence from the Marion Municipal Court, challenging personal jurisdiction, waiver of counsel, standby counsel's participation, sufficiency of the evidence, and the trial court's failure to continue the trial.
STANDARD OF REVIEW	Personal jurisdiction and waiver of the right to counsel are reviewed de novo. Decisions concerning standby counsel and continuances are generally reviewed for abuse of discretion; when the issue was not preserved, review is limited to plain error. Sufficiency of the evidence is reviewed by determining whether, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements proven beyond a reasonable doubt.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion

TOPICS

criminal procedure

right to counsel

appellate procedure

standard of review

due process

PRACTICE AREAS

criminal law

criminal procedure

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the municipal court lacked personal jurisdiction because Montgomery was not properly served with the complaint.
2. Whether Montgomery knowingly, intelligently, and voluntarily waived his right to counsel and whether the trial court sufficiently advised him before permitting self-representation.
3. Whether standby counsel's presentation of a Criminal Rule 29 motion constituted impermissible hybrid representation and violated Montgomery's right to self-representation.
4. Whether the State presented sufficient evidence that Montgomery knowingly made telecommunications with the specific purpose to harass, intimidate, or abuse.
5. Whether the trial court plainly erred by failing to continue the trial after appointed counsel withdrew shortly before trial.

HOLDINGS

1. A criminal court obtains personal jurisdiction when a defendant voluntarily appears and enters a plea, and the defendant thereby waives an objection to defective service. Montgomery's voluntary appearance at arraignment and not-guilty plea gave the municipal court personal jurisdiction.
2. Montgomery knowingly, intelligently, and voluntarily waived his right to counsel. The trial court substantially complied with Crim.R. 44(B) by conducting an adequate open-court inquiry and advising him about the charge, potential penalties, procedural obligations, and dangers of self-representation.
3. Standby counsel's limited presentation of a Crim.R. 29 motion did not constitute impermissible hybrid representation or plain error. Standby counsel may assist with procedural matters when the participation is not unsolicited and excessively intrusive.
4. The State presented sufficient evidence to support Montgomery's conviction under R.C. 2917.21(A)(1). A rational jury could find beyond a reasonable doubt that he knowingly made telecommunications with the specific purpose to harass, intimidate, or abuse.
5. The trial court did not plainly err by proceeding to trial without sua sponte granting a continuance. Montgomery did not make an affirmative motion for a continuance, and the record did not show that a continuance would have changed the outcome.

KEY QUOTATIONS

“For a defendant’s waiver of counsel to be valid, it must be made with a clear understanding of (1) the nature of the charges and any included statutory offenses; (2) the range of allowable punishments; (3) possible defenses and mitigating circumstances; and (4) all other facts essential to a broad understanding of the entire matter.” (¶ 22)

“Nevertheless, “nothing prevents standby counsel from providing advice to a criminal defendant on evidentiary or procedural matters, so long as the involvement of standby counsel does not reach the level of ‘unsolicited and excessively intrusive participation’ that is at odds with a criminal defendant’s right to self-representation.”” (¶ 34)

“The telecommunications-harassment statute ‘focuses on the caller rather than on the content of the speech; it is the intent with which the call is made that establishes the criminality of the conduct.’” (¶ 47)

FACTUAL BACKGROUND

Montgomery sent a series of unwanted text messages to Ashtan Morrison and Cedrick Riley despite repeated instructions from them and law enforcement to stop communicating. He was charged with telecommunications harassment, voluntarily appeared for arraignment, and pleaded not guilty after an arrest warrant had been issued when he refused service. After conflicts with appointed counsel, the trial court permitted Montgomery to represent himself with standby counsel. A jury convicted him after trial, and the municipal court imposed community-control sanctions including jail time.

PROCEDURAL HISTORY

Montgomery was charged in Marion Municipal Court with first-degree-misdemeanor telecommunications harassment. He voluntarily appeared for arraignment and pleaded not guilty, later proceeded pro se with standby counsel after his appointed counsel withdrew, and was convicted following a jury trial. The municipal court imposed five years of community-control sanctions, including 180 days in jail with 170 days suspended. The Ohio Third District Court of Appeals overruled all five assignments of error and affirmed, remanding only for execution of the judgment for appellate costs.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The cause was remanded to the Marion Municipal Court solely for execution of the judgment for appellate costs and issuance of the mandate under App.R. 27 and service under App.R. 30.

CASES CITED

- State v. Thompson, 2021-Ohio-642, ¶ 9 (3d Dist.)
- State ex rel. Post v. Speck, 2010-Ohio-105, ¶ 10 (3d Dist.)
- State v. Stuber, 2018-Ohio-2809, ¶¶ 13-18 (3d Dist.)
- State v. Hudson, 2013-Ohio-647, ¶ 27 (3d Dist.)

- State v. Neff, 1994 Ohio App. LEXIS 367, *5 (11th Dist. Feb. 4, 1994)
- Cleveland v. Kutash, 2013-Ohio-5124, ¶¶ 11-12 (8th Dist.)
- State v. Pizzuto, 2018-Ohio-146, ¶ 22 (5th Dist.)
- State v. Godley, 2018-Ohio-4253, ¶¶ 9, 11 (3d Dist.)
- State v. Logan, 2017-Ohio-8932, ¶¶ 34, 36 (3d Dist.)
- State v. Martin, 2004-Ohio-5471, ¶ 23
- Adams v. United States ex rel. McCann, 317 U.S. 269, 279 (1942)
- State v. Petaway, 2006-Ohio-2941, ¶ 8 (3d Dist.)
- State v. Conard, 2024-Ohio-1906, ¶ 13 (2d Dist.)
- State v. Medford, 2025-Ohio-140, ¶ 18 (3d Dist.)
- State v. Gerken, 2023-Ohio-2244, ¶ 29 (6th Dist.)
- State v. Thompson, 2009-Ohio-185, ¶ 10 (3d Dist.)
- State v. Constable, 2005-Ohio-1239, ¶ 31 (12th Dist.)
- Mason v. Krivinsky, 1998 Ohio App. LEXIS 2659, *23 (12th Dist. June 15, 1998)
- State v. Nero, 56 Ohio St.3d 106, 108 (1990)
- Akron v. Ragle, 2005-Ohio-590, ¶¶ 9, 13-14 (9th Dist.)
- State v. Lee, 2025-Ohio-875, ¶ 25 (5th Dist.)
- State v. Yeager, 2018-Ohio-574, ¶¶ 8, 16-17 (9th Dist.)
- State v. Hackett, 2020-Ohio-6699, ¶¶ 9-10, 20, 61 (3d Dist.)
- State v. Lucas, 2025-Ohio-1918, ¶ 58 (4th Dist.)
- State v. McAlpin, 2022-Ohio-1567, ¶¶ 65, 309
- State v. Pinckney, 2017-Ohio-2836, ¶ 6 (9th Dist.)
- State v. Adams, 62 Ohio St.2d 151, 157-158 (1980)
- State v. Terrell, 2022-Ohio-4312, ¶¶ 34-36 (6th Dist.)
- State v. Long, 53 Ohio St.2d 91 (1978)
- State v. Jenks, 61 Ohio St.3d 259, paragraph two of the syllabus (1981)
- State v. Smith, 80 Ohio St.3d 89 (1997)
- State v. Jones, 2013-Ohio-4775, ¶ 33 (1st Dist.)
- State v. Berry, 2013-Ohio-2380, ¶ 19 (3d Dist.)
- State v. Thompkins, 78 Ohio St.3d 380, 386-387 (1997)
- State v. Shuck, 2020-Ohio-6989, ¶¶ 14-16 (9th Dist.)
- State v. Rasawehr, 2020-Ohio-429, ¶ 29 (3d Dist.)
- State v. Stanley, 2006-Ohio-4632, ¶ 13 (10th Dist.)
- State v. White, 2025-Ohio-306, ¶ 15 (5th Dist.)
- State v. Golga, 2024-Ohio-1410, ¶ 6 (9th Dist.)
- State v. Pierce, 2024-Ohio-5357, ¶ 22 (12th Dist.)
- State v. Hawks, 2025-Ohio-5407, ¶ 26 (5th Dist.)

- State v. Hurley, 2014-Ohio-2716, ¶¶ 37-38 (3d Dist.)
- Perrysburg v. Miller, 2003-Ohio-4221, ¶ 57 (6th Dist.)
- State v. Brown, 2000 Ohio App. LEXIS 3132, *21 (2d Dist. July 14, 2000)
- State v. Ames, 2019-Ohio-2632, ¶¶ 29-30 (3d Dist.)
- Warren v. Stoutamire, 2000 Ohio App. LEXIS 5922, *13, *15 (11th Dist. Dec. 15, 2000)
- State v. Pattson, 2010-Ohio-5755, ¶ 19 (2d Dist.)
- State v. Chappell, 2010-Ohio-112, ¶ 6 (2d Dist.)
- In re C.H., 2020-Ohio-716, ¶¶ 81, 84 (3d Dist.)
- State v. James, 1998 Ohio App. LEXIS 312, *5-*6 (5th Dist. Jan. 20, 1998)
- State v. Downing, 2020-Ohio-3984, ¶ 8 (2d Dist.)
- State v. Stembridge, 2008-Ohio-1054, ¶ 14 (9th Dist.)