

OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT, DELAWARE
COUNTY

State v. Russell

2025-Ohio-5311 · No. 25 CAA 02 0019 · Decided November 25, 2025

SUMMARY

The Fifth District Court of Appeals of Ohio affirmed Benjamin J. Russell’s conviction for felony domestic violence. The court held that statements by the victim to paramedics and statements by the defendant’s brother to a 911 operator and responding officers were admissible under the Confrontation Clause and applicable hearsay exceptions. The court also rejected Russell’s cumulative-error and fair-trial arguments.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District, Delaware County
WRITING FOR THE COURT	Craig R. Baldwin, P.J.; William B. Hoffman, J.; Robert G. Montgomery, J.
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District, Delaware County
DECIDED	November 25, 2025
DOCKET	25 CAA 02 0019
DISPOSITION	affirmed
PROCEDURAL POSTURE	Russell appealed his jury conviction for felony domestic violence, challenging the admission of out-of-court statements under the Confrontation Clause, the hearsay rule, and Evid.R. 403(A).
STANDARD OF REVIEW	Confrontation Clause claims present questions of law reviewed de novo. Unpreserved Confrontation Clause claims are reviewed for plain error. Evidentiary rulings are reviewed for abuse of discretion, meaning an arbitrary, unreasonable, or unconscionable ruling. Cumulative-error claims are reviewed to determine whether the combined errors deprived the defendant of a fair trial.
PRECEDENTIAL VALUE	Published
PARTIES	Benjamin J. Russell v. State of Ohio

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QUESTIONS PRESENTED

1. Whether admission of R.H.'s statements to paramedics and Russell's brother's statements to the 911 operator and responding officers violated Russell's rights under the Sixth Amendment Confrontation Clause.
2. Whether the trial court abused its discretion by admitting R.H.'s and Russell's brother's out-of-court statements under exceptions to the hearsay rule.
3. Whether the cumulative effect of the alleged evidentiary and constitutional errors deprived Russell of a fair trial or caused unfair prejudice under Evid.R. 403(A).

HOLDINGS

1. Admission of R.H.'s statements to paramedics did not violate the Confrontation Clause because the statements were nontestimonial and were made while paramedics were treating her injuries.
2. Admission of Russell's brother's statements to the 911 operator and responding officers did not violate the Confrontation Clause, and any unpreserved challenge did not constitute plain error.
3. The trial court properly admitted R.H.'s statements under the medical-diagnosis-or-treatment and excited-utterance exceptions and properly admitted Russell's brother's statements under the present-sense-impression exception.
4. The alleged errors, considered individually and cumulatively, did not deprive Russell of a fair trial or warrant reversal.

KEY QUOTATIONS

“Statements are nontestimonial when made in the course of police interrogation under circumstances objectively indicating that the primary purpose of the interrogation is to enable police assistance to meet an ongoing emergency.” (¶ 21)

“The primary purpose of a testimonial statement is to create an out-of-court substitute for trial testimony.” (¶ 21)

“The central requirements are that the statement must be made while the declarant is still under the stress of the event and the statement may not be a result of reflective thought.” (¶ 30)

FACTUAL BACKGROUND

Police responded to a report of a physical fight involving blood and injuries at an apartment. Russell's brother, who called 911 and spoke with responding officers, reported that Russell had assaulted his girlfriend, R.H., during an ongoing emergency. Officers found R.H. injured, bleeding, upset, and reluctant to speak; she described

her injuries to paramedics, including being struck by Russell with his fists and walker. The jury convicted Russell of domestic violence after hearing the 911 recording, body-camera footage, and testimony concerning R.H.'s statements and injuries.

PROCEDURAL HISTORY

Russell was indicted in the Delaware County Court of Common Pleas for domestic violence in violation of R.C. 2919.25(A) and (D)(4). After a jury trial, he was found guilty and received a consecutive 36-month prison term, in addition to an 18-month sentence imposed for a community-control violation in another case. The Fifth District Court of Appeals affirmed the conviction and sentence.

DISPOSITION

affirmed

CASES CITED

- State v. Smith, 2024-Ohio-5745
- State v. McKelton, 148 Ohio St.3d 261, 2016-Ohio-5735, 70 N.E.3d 508, ¶ 172
- Crawford v. Washington, 541 U.S. 36, 124 S.Ct. 1354, 158 L.Ed.2d 177 (2004)
- Davis v. Washington, 547 U.S. 813, 126 S.Ct. 2266, 165 L.Ed.2d 224 (2006)
- Ohio v. Clark, 576 U.S. 237, 135 S.Ct. 2173, 192 L.Ed.2d 306 (2015)
- Michigan v. Bryant, 562 U.S. 344, 131 S.Ct. 1143, 179 L.Ed.2d 93 (2011)
- State v. Barnes, 94 Ohio St.3d 21, 27, 759 N.E.2d 1240 (2002)
- State v. Long, 53 Ohio St.2d 91, 372 N.E.2d 804 (1978)
- State v. Jackson, 141 Ohio St.3d 171, 2014-Ohio-3707, 23 N.E.3d 1023, ¶ 137
- State v. Cepec, 2016-Ohio-8076, ¶ 67
- State v. Jackson, 2023-Ohio-2193 (3d Dist.)
- State v. Beasley, 153 Ohio St.3d 497, 2018-Ohio-493, 108 N.E.3d 1028, ¶ 183
- State v. Little
- State v. Rigby v. Lake County, 58 Ohio St.3d 269, 271 (1991)
- Blakemore v. Blakemore, 5 Ohio St.3d 217, 219 (1983)
- State v. Scarl, 2003-Ohio-3493 (11th Dist.)
- State v. Shelton
- State v. Humphries, 79 Ohio App.3d 589, 598, 607 N.E.2d 921 (1992)
- State v. Ashford, 2001 WL 137595 (Ohio App. 11th Dist. Feb. 16, 2001)
- State v. Taylor
- State v. Wallace, 37 Ohio St.3d 87, 524 N.E.2d 466 (1988)
- State v. Patterson, 1998 WL 310737 (Ohio App. 11th Dist. May 22, 1998)
- State v. Powell, 2012-Ohio-2577

- State v. DeMarco, 31 Ohio St.3d 191, 509 N.E.2d 1256 (1987)
- State v. Hunter, 131 Ohio St.3d 67, 2011-Ohio-6524, 960 N.E.2d 955, ¶ 132
- State v. Garner, 74 Ohio St.3d 49, 64, 656 N.E.2d 623 (1995)

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