

OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT

State v. Anderson

2026-Ohio-2027 · No. 2025 CA 0004 · Decided May 29, 2026

SUMMARY

The Ohio Court of Appeals for the Fifth Appellate District affirmed Randy Anderson's convictions and sentence for two counts of gross sexual imposition involving a child. The court held that the trial court erred by declaring the child victim incompetent without properly establishing the unavailability of her testimony and by using erroneous reasonable-person language in the sexual-gratification jury instruction, but concluded that both errors were harmless in light of the overwhelming evidence, including Anderson's admissions.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District
WRITING FOR THE COURT	Andrew J. King, P.J.; William B. Hoffman, J.; Kevin W. Popham, J.
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District
DECIDED	May 29, 2026
DOCKET	2025 CA 0004
DISPOSITION	affirmed
PROCEDURAL POSTURE	Anderson appealed his jury convictions and sentence for two counts of gross sexual imposition, challenging the child victim's competency determination, restrictions on closing argument and jury instructions, and cumulative error.
STANDARD OF REVIEW	Unobjected-to claims were reviewed for plain error under Crim.R. 52(B). The competency determination was reviewed for abuse of discretion; jury-instruction issues were reviewed de novo to the extent they concerned whether the instructions correctly stated the law, with jury instructions considered as a whole. Harmless-error principles applied to each alleged error and to the cumulative-error claim.
PRECEDENTIAL VALUE	Published and precedential Ohio Court of Appeals opinion
PARTIES	Randy Anderson v. State of Ohio

TOPICS

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QUESTIONS PRESENTED

1. Whether the trial court erred by finding the child victim incompetent to testify without conducting the hearing required by Evid.R. 601 and R.C. 2317.01.
2. Whether the trial court erred by preventing defense counsel from commenting during closing argument on the victim's failure to testify and by instructing the jury not to consider that fact.
3. Whether the jury instruction defining sexual gratification impermissibly applied an objective reasonable-person standard to the specific-intent element of gross sexual imposition.
4. Whether the cumulative effect of the alleged errors deprived Anderson of a fair trial.

HOLDINGS

1. The trial court erred by finding the child victim incompetent and applying Evid.R. 807 without the State demonstrating that the child's testimony was not reasonably obtainable. The error did not require reversal because the evidence of guilt was overwhelming and the child's statements were independently admissible under Evid.R. 803(2) and Evid.R. 803(4).
2. Assuming the trial court erred by preventing defense counsel from commenting on the victim's failure to testify and instructing the jury not to consider that fact, any error was harmless beyond a reasonable doubt because the evidence of guilt was overwhelming.
3. The trial court's use of reasonable-person language in defining sexual arousal or gratification was erroneous because gross sexual imposition requires proof that the defendant specifically intended the touching to achieve sexual arousal or gratification. The error was harmless because the evidence of guilt was overwhelming.
4. The alleged errors, considered cumulatively, did not deprive Anderson of a fair trial because the errors were harmless and did not materially affect the verdict.

KEY QUOTATIONS

"Here, as in Carson, the state failed to establish or state why O.P's testimony was not reasonably obtainable." (¶ 24)

"We likewise find in this matter that the "reasonable person" language was error." (¶ 50)

"To the extent that we have found that claimed error did not rise to the level of plain error or was harmless, we conclude that the cumulative effect of such claimed errors is also harmless because taken together, they did not materially affect the verdict." (¶ 56)

FACTUAL BACKGROUND

Anderson, the step-grandfather of O.P., regularly cared for her when she was approximately five or six years old. O.P. disclosed that Anderson touched her genital area, exposed his penis to her, showed her sexually explicit material, and told her not to disclose the conduct. Anderson made several admissions to law enforcement, a social-services worker, and a pretrial-release officer, although he characterized the conduct as childcare or otherwise denied a sexual purpose. O.P. did not testify after the trial court found her incompetent, but her statements to her mother and to a forensic interviewer were admitted, and the jury convicted Anderson.

PROCEDURAL HISTORY

A Morrow County grand jury indicted Anderson on one count of gross sexual imposition under R.C. 2907.05(A)(4) and one count under R.C. 2907.05(A)(1). After a jury trial, Anderson was convicted as charged, sentenced to an aggregate ten years of incarceration, and classified as a Tier II sex offender. The Ohio Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Thomas, 2017-Ohio-8011, ¶¶ 32-34
- State v. Quarterman, 140 Ohio St.3d 464, 2014-Ohio-4034, 19 N.E.3d 900, ¶ 16
- State v. Barnes, 94 Ohio St.3d 21, 27, 759 N.E.2d 1240 (2002)
- State v. Rogers, 143 Ohio St.3d 385, 2015-Ohio-2459, 38 N.E.3d 860, ¶ 22
- United States v. Dominguez Benitez, 542 U.S. 74, 81-83, 124 S.Ct. 2333, 159 L.Ed.2d 157 (2004)
- State v. Long, 53 Ohio St.2d 91, 372 N.E.2d 804 (1978)
- State v. Carson, 2025-Ohio-2409, ¶¶ 47-51
- State v. Said, 71 Ohio St.3d 473, 477 (1994)
- State v. Silverman, 2009-Ohio-1576, ¶¶ 20, 34
- State v. Muttart, 2007-Ohio-5267
- State v. Martens, 90 Ohio App.3d 338 (1993)
- State v. Echevarria, 2018-Ohio-1193, ¶ 27
- State v. Coleman, 37 Ohio St.3d 286 (1988)
- State v. Croy, 2024-Ohio-4638, ¶¶ 29-30
- State v. Tate, 8th Dist. Cuyahoga No. 98221, 2013-Ohio-370, ¶¶ 18-20
- In re Anderson, 116 Ohio App.3d 441, 443-444, 688 N.E.2d 545 (12th Dist. 1996)
- State v. Astley, 36 Ohio App.3d 247, 250, 523 N.E.2d 322 (10th Dist. 1987)
- State v. Cobb, 81 Ohio App.3d 179, 185, 610 N.E.2d 1009 (9th Dist. 1991)
- State v. Meredith, 12th Dist. No. CA2004-06-062, 2005-Ohio-2664
- State v. Mundy, 99 Ohio App.3d 275, 289, 650 N.E.2d 502 (2d Dist. 1994)
- State v. Lockhart, 2008-Ohio-57, ¶¶ 45-47

- State v. Ferguson, 5 Ohio St.3d 160, 166 (1983)
- State v. Harris, 2004-Ohio-3570, ¶ 40
- State v. Madrigal, 87 Ohio St.3d 378, 397 (2000)
- State v. Powell, 2012-Ohio-2577, ¶ 223
- State v. DeMarco, 31 Ohio St.3d 191, paragraph two of the syllabus (1987)
- State v. Leonard, 2004-Ohio-6235, ¶ 185

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