

COURT OF APPEALS OF OHIO, THIRD APPELLATE DISTRICT

State v. D'Andrea

2026-Ohio-2247 · No. 15-25-10 · Decided June 15, 2026

SUMMARY

The Ohio Court of Appeals, Third Appellate District, affirmed Guy Alan D’Andrea’s conviction for second-degree-felony child endangering. The court held that the trial court did not abuse its discretion in finding the child witness competent, and that any deficiencies in recording the child’s remote testimony did not result in material prejudice. The court also concluded that the conviction was not against the manifest weight of the evidence.

CASE DETAILS

COURT	Court of Appeals of Ohio, Third Appellate District
WRITING FOR THE COURT	Juergen A. Waldick; Mark C. Miller; John R. Willamowski
JURISDICTION	Ohio Court of Appeals, Third Appellate District
DECIDED	June 15, 2026
DOCKET	15-25-10
DISPOSITION	affirmed
PROCEDURAL POSTURE	D'Andrea appealed his felony conviction and four-to-six-year prison sentence, challenging the recording of trial proceedings, the competency of a child witness, and the manifest weight of the evidence.
STANDARD OF REVIEW	The competency determination was reviewed for abuse of discretion. The manifest-weight challenge required examination of the entire record, weighing the evidence and reasonable inferences, considering witness credibility, and determining whether the jury clearly lost its way and created a manifest miscarriage of justice. The recording claim was evaluated under the prejudice requirements of State v. Palmer and the alternatives provided by App.R. 9.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Guy Alan D'Andrea v. State of Ohio

TOPICS

evidence

criminal procedure

appellate procedure

standard of review

due process

PRACTICE AREAS

criminal law

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QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by determining that twelve-year-old N.K. was competent to testify.
2. Whether the failure to capture some of N.K.'s remote testimony and other portions of the trial proceedings violated D'Andrea's due-process rights and required reversal.
3. Whether D'Andrea's conviction was against the manifest weight of the evidence.

HOLDINGS

1. The trial court did not abuse its discretion by finding N.K. competent to testify because the record supported that she could receive impressions of fact, recall and communicate those impressions, understand truth and falsity, and appreciate the responsibility to testify truthfully. A child over ten is presumed competent, and D'Andrea did not rebut that presumption.
2. The incomplete capture of portions of N.K.'s remote testimony did not require reversal because D'Andrea failed to show the required trial request or objection, failed to establish the importance of the missing portions through the App.R. 9 procedures, and failed to demonstrate material prejudice.
3. D'Andrea's conviction was not against the manifest weight of the evidence because this was not an exceptional case in which the evidence weighed heavily against conviction, and the jury did not clearly lose its way.

KEY QUOTATIONS

“Importantly, under the legal authority cited herein, we must “start with the presumption that all persons are competent to testify, even children[,]” particularly if the child is over 10 years old.” (¶ 11)

“The vast majority of D’Andrea’s issues with N.K.’s competence were credibility issues that could be explored on cross-examination, not issues with N.K.’s overall competence to testify.” (¶ 22)

“Notwithstanding these points, it is D’Andrea’s burden to demonstrate that he was prejudiced by any failure of the recording, and he does not, and cannot do so based on the record before us.” (¶ 30)

“After reviewing all of the evidence in this case, we do not find it is one of the exceptional cases where the evidence weighs “heavily” against the conviction.” (¶ 58)

FACTUAL BACKGROUND

D'Andrea was a foster parent to eleven-year-old N.K., who had autism, cerebral palsy, and a history of self-harming behavior. After N.K. developed extensive bruising and genital injuries, she disclosed that D'Andrea had kicked her between the legs while they were alone in the yard. At trial, N.K. gave conflicting accounts, including

testimony that she had injured herself, but the State presented corroborating testimony from a camp employee, a sheriff's deputy, and a child-abuse pediatrician. The jury convicted D'Andrea of endangering children under R.C. 2919.22(B)(1) and acquitted him of the alternative charge.

PROCEDURAL HISTORY

D'Andrea was indicted in the Van Wert County Common Pleas Court for two counts of endangering children. After a jury trial, he was convicted of endangering children under R.C. 2919.22(B)(1) and acquitted of the alternative charge under R.C. 2919.22(B)(3). The trial court sentenced him to an indefinite prison term of four to six years. The Court of Appeals affirmed, overruling all three assignments of error, and remanded only for execution of the judgment for appellate costs.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The cause was remanded to the trial 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. Spencer, 2025-Ohio-3268, ¶¶ 16-17 (7th Dist.)
- State v. Maxwell, 2014-Ohio-1019, ¶ 100
- Blakemore v. Blakemore, 5 Ohio St. 3d 217, 219 (1983)
- State v. Clark, 1994-Ohio-43
- State v. Frazier, 61 Ohio St. 3d 247, 251 (1991)
- State v. McClusky, 2004-Ohio-85, ¶ 16 (6th Dist.)
- State v. Palmer, 80 Ohio St. 3d 543, 554, 1997-Ohio-312
- State v. Thompkins, 78 Ohio St. 3d 380, 387 (1997)
- State v. Haller, 2012-Ohio-5233, ¶ 9 (3d Dist.)
- State v. Hunter, 2011-Ohio-6524, ¶ 119
- State v. Green, 2023-Ohio-4360, ¶ 136 (3d Dist.)