

OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT

State v. Kirkbride

2026-Ohio-2059 · No. CT2025-0102 · Decided June 2, 2026

SUMMARY

The Ohio Court of Appeals for the Fifth Appellate District affirmed David Kirkbride’s convictions for obstructing official business and assaulting a police dog. The court held that the trial court properly denied a self-defense jury instruction, limited evidence concerning Kirkbride’s alleged dangerousness and the warrant, and addressed the claimed prosecutorial misconduct.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District
WRITING FOR THE COURT	Craig R. Baldwin, P.J.; Andrew J. King, J.; Robert G. Montgomery, J.
JURISDICTION	Ohio Court of Appeals, Fifth Appellate District
DECIDED	June 2, 2026
DOCKET	CT2025-0102
DISPOSITION	affirmed
PROCEDURAL POSTURE	Kirkbride appealed his jury convictions and sentence for obstructing official business and assaulting a police dog, challenging the denial of a self-defense instruction, evidentiary rulings, and alleged prosecutorial misconduct.
STANDARD OF REVIEW	The denial of a requested jury instruction is reviewed for abuse of discretion, while whether the instruction is legally correct and factually warranted is reviewed de novo. Motions in limine and evidentiary rulings are reviewed for abuse of discretion. Prosecutorial-misconduct statements and whether they rendered the trial fundamentally unfair are mixed questions of law and fact reviewed de novo.
PRECEDENTIAL VALUE	Published opinion; precedential under the source metadata.
PARTIES	David Kirkbride v. State of Ohio

TOPICS

- criminal procedure
- self defense
- evidence
- prosecutorial misconduct
- appellate procedure

PRACTICE AREAS

criminal procedure

evidence

appellate procedure

prosecutorial misconduct

QUESTIONS PRESENTED

1. Whether the trial court erred by refusing to instruct the jury on self-defense in connection with the assault-on-a-police-dog charge.
2. Whether the trial court abused its discretion by denying Kirkbride's motion in limine concerning the reason deputies used a police dog and by permitting limited testimony that he was potentially dangerous.
3. Whether the trial court erred by allowing the State to refer to Kirkbride as dangerous.
4. Whether the trial court erred by excluding evidence concerning the offense underlying the warrant being served.
5. Whether the prosecutor committed prejudicial misconduct during closing argument by suggesting that defense counsel had to make an argument or was arguing falsely.

HOLDINGS

1. The trial court properly denied a self-defense instruction because the evidence, viewed in Kirkbride's favor, did not support a finding that he was not at fault in creating the confrontation or that the deputies or K-9 used excessive or unnecessary force before Kirkbride attacked the dog.
2. The trial court did not abuse its discretion by allowing the deputy to explain the use of the K-9 while prohibiting reference to Kirkbride's prior criminal history.
3. The trial court properly excluded evidence concerning the offense underlying the warrant because the warrant's basis did not make any element of obstructing official business or assaulting a police dog more or less probable.
4. The prosecutor's closing-argument remark did not constitute prejudicial prosecutorial misconduct because the trial court sustained the objection, clarified that the defense had no obligation to present evidence, and minimized any possible prejudice.

KEY QUOTATIONS

“Unless an arresting officer uses excessive or unnecessary force, a private citizen may not use force to resist arrest by an authorized police officer, regardless of whether the arrest is illegal.” (§ 20)

“The appellant refused to come out of the van, thus “creating the situation that led to the affray.” (§ 21)

“After considering the effect said comments may have had on the jury “in the context of the entire trial,” we find the trial court appropriately sustained the objection and minimized the negative effect of the statement, if any, on the jury.” (§ 36)

FACTUAL BACKGROUND

Deputies went to a residence to execute an outstanding warrant for Kirkbride and found him crouched inside an open van. After Deputy Wisecarver repeatedly ordered Kirkbride to exit and warned that a police dog would be

deployed, Kirkbride refused to comply, and the deputy sent K-9 Panzer into the van. Kirkbride punched Panzer in the snout and grabbed the dog's gums; deputies later found knives or box cutters on Kirkbride. The deputies stipulated that Kirkbride's conduct impeded their official duties.

PROCEDURAL HISTORY

Kirkbride was indicted in the Muskingum County Court of Common Pleas on November 27, 2024, pleaded not guilty, and proceeded to a jury trial on July 31, 2025. The jury found him guilty of both offenses. The trial court's judgment was appealed to the Fifth District, which overruled all five assignments of error and affirmed.

DISPOSITION

affirmed

CASES CITED

- Telle v. Pasley, 2013-Ohio-2407, ¶ 42 (5th Dist.)
- Cromer v. Children's Hosp. Med. Ctr. of Akron, 2015-Ohio-229, ¶ 22
- State v. Simpson, 2025-Ohio-4797 (5th Dist.)
- State v. Palmer, 174 Ohio St. 3d 561, 2024-Ohio-539, ¶ 16, 238 N.E.3d 33
- State v. Wolons, 44 Ohio St.3d 64, 68, 541 N.E.2d 443 (1989)
- State v. Adams, 62 Ohio St.2d 151, 157, 404 N.E.2d 144 (1980)
- State v. Messenger, 171 Ohio St. 3d 227, 2022-Ohio-4562, ¶¶ 22, 24-25, 216 N.E.3d 653
- State v. Asp, 2023-Ohio-290, ¶¶ 55, 61, 207 N.E.3d 893 (5th Dist.)
- State v. Paskins, 2022-Ohio-4024, ¶ 48, 200 N.E.3d 684 (5th Dist.)
- City of Columbus v. Fraley, 41 Ohio St.2d 173, 324 N.E.2d 735 (1975)
- Estate of Johnson v. Randall Smith, Inc., 135 Ohio St.3d 440, 2013-Ohio-1507, 989 N.E.2d 35
- Westfield Ins. Grp. v. Silco Fire & Sec., 2019-Ohio-2697, ¶ 45 (5th Dist.)
- Blakemore v. Blakemore, 5 Ohio St.3d 217, 5 Ohio B. 481, 450 N.E.2d 1140 (1983)
- State ex rel. DeWine v. 333 Joseph, L.L.C., 2014-Ohio-5090, ¶ 24 (3rd Dist.)
- State v. Acker, 2023-Ohio-2085, ¶ 38 (5th Dist.)
- State v. Lee, 2024-Ohio-2044 (5th Dist.)
- Sunbury v. Sullivan, 2012-Ohio-3699, ¶ 30
- State v. Lott, 51 Ohio St.3d 160, 555 N.E.2d 293 (1990)
- Darden v. Wainwright, 477 U.S. 168, 106 S.Ct. 2464 (1986)
- State v. Treesh, 90 Ohio St.3d 460, 464, 2001-Ohio-4, 739 N.E.2d 749
- State v. Newton, 108 Ohio St.3d 13, 2006-Ohio-81, ¶ 92, 840 N.E.2d 593
- Smith v. Phillips, 455 U.S. 209, 219, 102 S.Ct. 940, 71 L.Ed.2d 78 (1982)
- State v. Keenan, 66 Ohio St.3d 402, 410, 613 N.E.2d 203 (1993)
- State v. Smith, 14 Ohio St.3d 13, 14, 470 N.E.2d 883 (1984)

- State v. Hicks, 194 Ohio App.3d 743, 2011-Ohio-3578, ¶ 30, 957 N.E.2d 866 (8th Dist.)
- State v. Williams, 38 Ohio St.3d 346, 349-350, 528 N.E.2d 910 (1988)
- State v. Razey, 2023-Ohio-4190, ¶ 28 (5th Dist.)
- United States v. Carson, 560 F.3d 566, 574 (6th Cir. 2009)

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