[Cite as *State v. Chandra*, 2026-Ohio-4562.]

IN THE OHIO COURT OF APPEALS
NINTH APPELLATE DISTRICT
SUMMIT COUNTY, OHIO

STATE OF OHIO Plaintiff-Appellee SAI CHANDRA Defendant-Appellant	Case No. CA-31908 Opinion And Judgment Entry Appeal from the Barberton Municipal Court, Case No. TRD2505091 Sitting by Supreme Court Assignment Judgment: Affirmed Date of Judgment Entry: Nov. 18, 2026

BEFORE: Craig R. Baldwin, Kevin W. Popham, and David M. Gormley, Judges

APPEARANCES: Michelle Banbury, for Plaintiff-Appellee; Matthew I. Weisman, for Defendant-Appellant

OPINION

Popham, J.,

{¶1} Appellant Sai Chandra ("Chandra") appeals her conviction following a bench trial in the Barberton Municipal Court. Chandra was convicted of failure to yield when making a left turn, in violation of R.C. 4511.42. For the reasons that follow, we affirm.

Facts and Procedural History

{¶2} On September 17, 2025, Chandra was involved in a motor vehicle accident in Copley Township, Summit County, Ohio. The accident involved Chandra and another driver, E.D. Chandra was cited for failure to yield when making a left turn in violation of R.C. 4511.42.

{¶3} On October 9, 2025, Chandra filed a demand for discovery requesting, among other things, E.D.'s telephone records for the period surrounding the accident.

{¶4} On October 22, 2025, the trial court set the matter for a pre- jury conference on January 6, 2026.

{¶5} On November 10, 2025, Chandra filed a motion to compel discovery, again requesting that the State produce E.D.'s telephone records.

{¶6} On January 2, 2026, Chandra filed a notice of issuance of a subpoena duces tecum, advising the trial court that the subpoena had been sent to E.D. by certified mail. The subpoena requested E.D.'s telephone records for the period surrounding the accident.

{¶7} On January 7, 2026, the trial court scheduled the matter for a bench trial beginning March 11, 2026.

{¶8} On February 10, 2026, Chandra filed a motion to appoint a process server, stating that her attempts to serve E.D. with the subpoena duces tecum by certified mail had been unsuccessful.

{¶9} A bench trial commenced on March 11, 2026. Before the presentation of evidence, Chandra's trial counsel made an oral motion in limine seeking to exclude E.D.'s testimony or, alternatively, to continue the trial until Chandra could properly serve E.D. and obtain the requested telephone records.

{¶10} The trial court noted that the State intended to present evidence that Chandra had turned in front of E.D.'s vehicle. The court questioned the relevance of evidence that E.D. may have been using her telephone at the time of the accident. The State further argued that there was no evidence E.D. had been using her telephone. Chandra argued that E.D. had struck Chandra's vehicle and that evidence of E.D.'s telephone use was, therefore, relevant to

the circumstances of the collision. Defense counsel also noted that the docket did not reflect the motion to appoint a process server had been granted. Counsel requested a continuance to obtain the records. The trial court denied the motion in limine and the motion for a continuance. (Tr. at 5-10.)

Testimony of E.D.

{¶11} E.D. testified that on September 17, 2025, she left her home to pick up her son from school. (Tr. at 16.) At approximately 4:22 p.m., she was driving northbound on Heritage Woods Drive, approximately two blocks from her home. (Tr. at 16-17.) E.D. testified that she intended to proceed to Route 18, where she would turn right and continue to her son's school. (Tr. at 17-18.)

{¶12} E.D. testified that, as she proceeded northbound, Chandra's vehicle attempted to enter a shopping plaza and turned into E.D.'s vehicle. The collision caused the airbags in E.D.'s vehicle to deploy. (Tr. at 18-19.) E.D. testified that she never left her lane of travel before Chandra's vehicle struck hers. (*Id.*) E.D. further testified that her vehicle was totaled as a result of the collision. (Tr. at 19.)

{¶13} E.D. identified State's Exhibit 1 as a photograph of her vehicle after the collision. (Tr. at 20.) She testified that the tires on her vehicle were flattened by the collision and that she did not move the vehicle after the collision. (*Id.*)

{¶14} E.D. testified that, after the collision, she asked Chandra why she had hit her. According to E.D., Chandra responded, "I was turning, yes, I hit you." (Tr. at 21.)

Testimony of Sergeant Josh Grimm

{¶15} Sergeant Josh Grimm of the Copley Township Police Department testified that he responded to the accident and conducted the investigation. Sergeant Grimm testified

regarding his training and education in crash investigation. (Tr. at 23.) He testified that the accident occurred at the intersection of Heritage Woods Drive and Heritage Center Drive. Upon arriving at the scene, he spoke with both drivers and obtained their accounts of the accident. (Tr. at 24-26.)

{¶16} Sergeant Grimm identified his body-worn-camera footage, which was admitted as State's Exhibit 2 and played for the court. (Tr. at 26.) He testified that Chandra repeatedly stated that she had been making a left turn. (Tr. at 27.) When Chandra's male companion suggested that she had stopped while waiting to make the turn, Chandra disagreed, stating, "I never stopped," and "I just kept making that turn." (*Id.*)

{¶17} Sergeant Grimm also conducted a roadway analysis. He testified that the force of the collision caused Chandra's vehicle to rotate and come to rest facing northbound. (Tr. at 30.) He observed a trail of fluid from Chandra's vehicle that began in the northbound lane, which was not Chandra's lane of travel. The trail began in the left lane near the middle of the intersection. (Tr. at 29.) Sergeant Grimm opined that the radiator fluid could not have entered the northbound lane unless Chandra's vehicle had crossed the double yellow line. (*Id.*) He testified that E.D.'s vehicle was not leaking fluid. (Tr. at 30.)

{¶18} Sergeant Grimm also observed a skid or yaw mark caused by a flat tire on E.D.'s vehicle. He testified that the mark indicated E.D.'s vehicle was in its own northbound lane at the time of the collision. (Tr. at 30-31; State's Exhibit 6.) Sergeant Grimm acknowledged that he did not ask either driver whether she had been using a telephone immediately before the collision. (Tr. at 33.)

Testimony of Eric Brown

{¶19} Chandra presented the testimony of Eric Brown, the owner of Crash Tech Reconstruction Services. (Tr. at 43.) Brown also testified that he is a sergeant with the Stark County Sheriff's Office and operates the multi-jurisdictional crash team. He teaches traffic-crash investigation courses for the Ohio Peace Officer Training Academy and serves as a subject-matter expert in traffic-crash reconstruction for the Ohio Attorney General's Office. (Tr. at 43-45.)

{¶20} Brown testified regarding his education and experience in crash reconstruction, including training in traffic-crash investigation, vehicle dynamics, crash reconstruction, vehicle damage analysis, and forensic vehicle examination. He testified that he had investigated nearly 3,000 crashes during his career. (Tr. at 44-45.) The trial court qualified Brown as an expert witness. (Tr. at 46.)

{¶21} Brown testified that he reviewed the traffic-crash report, photographs of the vehicles, and the accident scene. He also performed damage analysis and used crash-reconstruction software in reaching his conclusions. (Tr. at 46.)

{¶22} According to Brown, if Chandra's vehicle had been traveling southbound and making a left turn, he would have expected the impact to cause the soft metal on the vehicle to be pulled outward. (Tr. at 49.) Brown testified that the photographs instead showed the driver's side of Chandra's vehicle crushed inward and toward the rear. (Tr. at 49-50.) In his opinion, the damage pattern was consistent with a head-on collision. (Tr. at 50.) Brown further testified that, if Chandra's vehicle had turned left across E.D.'s path, he would have expected a different damage pattern. (Tr. at 52.) Brown stated that he held his opinions to a reasonable degree of scientific and professional certainty. (Tr. at 53.)

{¶23} Brown acknowledged that he had not reviewed Sergeant Grimm's body-worn-camera footage. (Tr. at 56.) He also testified that he did not believe interviews with Chandra or E.D. would have assisted him in determining how the collision occurred. (Tr. at 57.)

Testimony of Sai Chandra

{¶24} Chandra testified in her own defense. She testified that she intended to make a left turn and saw an approaching vehicle. According to Chandra, she waited for the approaching vehicle, and the next thing she knew, E.D.'s vehicle struck hers. (Tr. at 62.) Chandra testified that she believed E.D. was traveling too fast.

{¶25} Chandra further testified that she was in shock following the collision and "shut down." (Tr. at 63.) She denied telling anyone that she was making a left turn at the time of the collision. She explained that she intended to communicate that she wanted to make a left turn but was waiting to do so. (Tr. at 63-64.) Chandra denied turning her vehicle into E.D.'s path and testified that she had not initiated the left turn when the collision occurred. (*Id.*)

Recall of Sergeant Josh Grimm

{¶26} The State recalled Sergeant Grimm. He disagreed with Brown's analysis and conclusions and reiterated his opinion concerning how the accident occurred based upon his roadway analysis. (Tr. at 71.)

{¶27} Verdict and Sentence

{¶28} Following the bench trial, the court found Chandra guilty of failure to yield when making a left turn in violation of R.C. 4511.42. The court imposed a $100 fine and court costs.

Assignments of Error

{¶29} Chandra raises three assignments of error for our consideration:

{¶30} "I. THE TRIAL COURT'S VERDICT OF GUILTY IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE."

{¶31} "II. THE TRIAL COURT ERRED IN DENYING APPELLANT'S MOTION IN LIMINE SEEKING TO DISQUALIFY [E.D.]'S TESTIMONY DESPITE APPELLANT'S REPEATED ATTEMPTS TO SERVE [E.D.] WITH A SUBPOENA TO DETERMINE AND ACCESS INFORMATION THAT MIGHT HAVE PROVIDED APPELLANT WITH A VIABLE DEFENSE."

{¶32} "III. THE TRIAL COURT ERRED WHEN IT DENIED APPELLANT'S ORAL MOTION IN LIMINE AS IT FAILED TO FOLLOW THE STANDARDS OF COMPULSORY PROCESS AND ACTIVELY PREVENTED APPELLANT FROM PRESENTING A DEFENSE."

I.

{¶33} In her first assignment of error, Chandra contends that her conviction is against the manifest weight of the evidence. We disagree.

Standard of Review

{¶34} A manifest-weight challenge concerns the persuasive force of the evidence. *Eastley v. Volkman*, 2012-Ohio-2179, ¶ 19. In conducting a manifest-weight review, an appellate court acts as a "thirteenth juror," independently reviewing the record, weighing the evidence and all reasonable inferences, considering the credibility of witnesses, and determining whether the factfinder clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed. *State v. Jordan*, 2023-Ohio-3800, ¶ 17; *State v. Thompkins*, 78 Ohio St.3d 380, 387 (1997). Reversal on manifest-weight grounds is reserved

for the exceptional case in which the evidence weighs heavily against the conviction. *Thompkins* at 387.

{¶35} Because the fact finder personally observes the witnesses, substantial deference is afforded to its credibility determinations. *Eastley* at ¶ 21; *Seasons Coal Co. v. Cleveland*, 10 Ohio St.3d 77, 80 (1984). "An appellate court sits as the thirteenth juror only when evidence contradicts a fact-finder's findings, *see State v. Martin*, 2022-Ohio-4175, ¶ 26, or when a witness's testimony is so inconsistent as to material facts, so impeached, or so fantastical as to make it patently unbelievable." *State v. Reillo*, 2026-Ohio-2701, ¶ 3. Without conflicting testimony or evidence that completely discredits a witness's testimony, an appellate court has nothing to weigh. *Id.*

{¶36} A conviction is not against the manifest weight of the evidence merely because the factfinder chose to believe the State's evidence over the defense's evidence. Where the evidence permits competing but reasonable interpretations, we defer to the factfinder's resolution of those conflicts unless the record demonstrates that it clearly lost its way. *See Martin* at ¶ 26.

{¶37} In addition, the Ohio Constitution requires the unanimous concurrence of all three appellate judges before a conviction may be reversed as against the manifest weight of the evidence. Ohio Const., Art. IV, § 3(B)(3); *Bryan-Wollman v. Domonko*, 2007-Ohio-4918, ¶¶ 2-4.

Analysis

{¶38} Chandra was convicted of failing to yield the right of way when making a left-hand turn, in violation of R.C. 4511.42(A). The statute provides:

> The operator of a vehicle…intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right of way to any vehicle…approaching from the opposite direction, whenever the approaching vehicle…is within the intersection or so close to the intersection, alley, private road, or driveway as to constitute an immediate hazard.

R.C. 4511.42(A) does not define "right-of-way." R.C. 4511.01(UU)(1), however, defines the term as "[t]he right of a vehicle…to proceed uninterruptedly in a lawful manner in the direction in which it is moving in preference to another vehicle…approaching from a different direction into its…path[.]"

{¶39} A driver "can forfeit the right of way if he or she fails to proceed in a lawful manner." *State v. Huffman*, 2016-Ohio-8093, ¶ 14 (9th Dist.), quoting *In re Neill*, 2005-Ohio-1696, ¶¶ 10-11 (3d Dist.). A vehicle proceeds in a lawful manner when it complies with applicable traffic laws. *Anderson v. Schmidt*, 2013-Ohio-3524, ¶ 25 (8th Dist.); *Carrozza v. Landis*, 2012-Ohio-6194, ¶ 15 (10th Dist.); *Noaker v. Gerdeman*, 2004-Ohio-2799, ¶ 7 (3d Dist.), citing *Vavrina v. Greczanik*, 40 Ohio App.2d 129, 136 (8th Dist.1974). "The law presumes that a vehicle that ostensibly has the right of way is proceeding lawfully." *Anderson* at ¶ 26; *see also State v. Kay*, 2018-Ohio-2709, ¶ 8 (9th Dist.); *Liegel v. Bainum*, 2011-Ohio-6022, ¶ 13 (12th Dist.). Accordingly, a party who asserts that an opposing vehicle's right of way has been forfeited must present evidence rebutting the presumption that the opposing vehicle was proceeding lawfully. *Anderson* at ¶ 27.

{¶40} Chandra contends the evidence did not establish that she turned left into E.D.'s path. She relies primarily on the testimony of defense expert Eric Brown concerning the

damage to her vehicle and argues that the physical evidence was more consistent with a head-on collision than with a collision caused by Chandra turning left across E.D.'s path.

{¶41} The record, however, contains substantial evidence supporting the State's account of the collision. E.D. testified that she was traveling northbound in her lane when Chandra's vehicle turned into her path. E.D. testified that she never left her lane. Most significantly, E.D. testified that, immediately after the collision, she asked Chandra why she had hit her and Chandra responded, "I was turning, yes, I hit you." (Tr. at 21.)

{¶42} Sergeant Grimm's investigation provided additional support for E.D.'s account. Chandra repeatedly stated during the investigation that she was making a left turn. When her male companion suggested that she had stopped while waiting to turn, Chandra disagreed, stating, "I never stopped" and "I just kept making that turn." (Tr. at 27.) Sergeant Grimm testified that the physical evidence at the scene was consistent with E.D.'s account. He observed a trail of fluid from Chandra's vehicle that began in the northbound lane and testified that the fluid could not have entered that lane unless Chandra's vehicle had crossed the double yellow line. (Tr. at 29.) He also identified a skid or yaw mark from E.D.'s vehicle that indicated E.D. was in her northbound lane at the time of the collision. (Tr. at 30-31.)

{¶43} Brown offered a different interpretation of the physical evidence. He testified that the damage to Chandra's vehicle was consistent with a head-on collision and inconsistent with the damage pattern he would expect if Chandra had turned left across E.D.'s path. (Tr. at 49-53.)

{¶44} The factfinder was entitled to consider Brown's testimony and his interpretation of the physical evidence. It was not, however, required to accept his conclusions over the testimony of E.D. and Sergeant Grimm and the other evidence presented by the State.

{¶45} Nor does the competing testimony demonstrate that the fact finder clearly lost its way. The factfinder heard both Brown and Sergeant Grimm, considered their opinions in conjunction with the photographs and body-camera footage, and was entitled to determine which interpretation of the physical evidence was more persuasive. The existence of an alternative explanation for the manner in which the collision occurred does not, standing alone, render the State's evidence incredible or require reversal on manifest-weight grounds.

{¶46} The factfinder also heard Chandra's explanation that she intended to turn left but was waiting for oncoming traffic and had not yet initiated the turn. Chandra denied turning her vehicle into E.D.'s path and testified that she had not begun the left turn when the collision occurred. The factfinder was entitled to evaluate that testimony in light of Chandra's statements immediately after the collision and during Sergeant Grimm's investigation, as well as the physical evidence described by Sergeant Grimm.

{¶47} Chandra essentially asks this Court to credit Brown's interpretation of the physical evidence over Sergeant Grimm's testimony and the other evidence supporting the State's account. That is not the function of manifest-weight review. "[T]he choice between credible witnesses and their conflicting testimony rests solely with the finder of fact and an appellate court may not substitute its own judgment for that of the finder of fact." *State v. Awan*, 22 Ohio St.3d 120, 123 (1986), citing *Seasons Coal Co. v. Cleveland*, 10 Ohio St.3d 77 (1984); *Henkle v. Salem Mfg. Co.*, 39 Ohio St. 547 (1883).

{¶48} Here, the evidence did not merely consist of competing opinions concerning the physical evidence. E.D. provided direct testimony that Chandra turned into her path, and Chandra's own statements immediately after the collision supported that account. Sergeant Grimm's observations of the vehicles, fluid trail, and roadway markings provided additional

physical evidence consistent with E.D.'s testimony. Although Brown offered a competing interpretation of the damage to Chandra's vehicle, the factfinder was entitled to resolve that conflict in favor of the State's evidence.

{¶49} Upon review of the entire record, we cannot conclude that the factfinder clearly lost its way or created such a manifest miscarriage of justice that Chandra's conviction must be reversed. This is not the exceptional case in which the evidence weighs heavily against the conviction. Rather, the record contains evidence from which the factfinder could reasonably conclude that Chandra turned left into E.D.'s path and failed to yield the right of way as required by R.C. 4511.42(A).

{¶50} Chandra's first assignment of error is overruled.

II.

{¶51} In her second assignment of error, Chandra argues the trial court abused its discretion by denying her motion in limine to exclude E.D.'s testimony because Chandra was unable to obtain E.D.'s telephone records.

{¶52} Because the trial court issued a definitive ruling before trial permitting E.D. to testify, Chandra was not required to renew her objection or make an offer of proof to preserve the alleged error for appeal. *State v. Echols*, 2024-Ohio-5088, ¶ 28.

Admissibility of Evidence

{¶53} A trial court has broad discretion in determining the admissibility of evidence, and its decision will not be disturbed absent an abuse of that discretion. *Rigby v. Lake Cty.*, 58 Ohio St.3d 269, 271 (1991). Even when a trial court abuses its discretion in admitting evidence, reversal is warranted only when the error affects a substantial right or results in a miscarriage of justice. *O'Brien v. Angley*, 63 Ohio St.2d 159, 164-165 (1980); *Beard v. Meridia*

Huron Hosp., 2005-Ohio-4787, ¶ 20. Evid.R. 103(A) likewise precludes reversal unless an evidentiary ruling affects a substantial right.

{¶54} When an evidentiary ruling implicates a constitutional guarantee, such as the right of confrontation, the ruling is reviewed de novo. *United States v. Henderson*, 626 F.3d 326, 333 (6th Cir. 2010); *State v. McKelton*, 2016-Ohio-5735, ¶ 97; *State v. Anthony*, 2021-Ohio-1916, ¶ 25 (5th Dist.).

{¶55} Here, Chandra's argument does not identify a constitutional violation. Rather, she contends that the trial court should have excluded E.D.'s testimony because Chandra was unable to obtain E.D.'s telephone records. We therefore review the trial court's ruling for an abuse of discretion.

{¶56} The record reflects that Chandra filed a motion requesting appointment of a process server on February 10, 2026, approximately one month before trial. The court granted the motion. Chandra nevertheless contends that she was unaware the court had granted the motion because no docket entry exists denoting said approval and, as a result, she was unable to serve E.D. with the subpoena for her telephone records before trial.

{¶57} A party to an action, and the party's counsel, has a duty to remain apprised of the progress of the case. *Honda v. Mid-West Restaurant Equip., Inc.*, 2001 Ohio App. LEXIS 2272, *8 (10th Dist. May 22, 2001); *accord Harris v. Rossi*, 2018-Ohio-4573, ¶ 50, 123 N.E.3d 284 (11th Dist.) ("[I]f a party has a legal duty to check the docket, that duty likewise extends to an attorney representing a party in pending litigation."); *Dlugolinski v. Frances*, 2017-Ohio-5746, ¶ 13 (8th Dist.) ("[Counsel] has a general duty to check the docket and keep himself current regarding the status of the case."); *State v. Aleman*, 2009-Ohio-217, ¶ 9 (8th Dist.) (explaining that the burden is on the parties to follow the progress of their case).

{¶58} Thus, Chandra had approximately one month between the trial court's granting of her motion and the commencement of trial to ascertain the status of the motion, obtain the appointment of a process server, and pursue service of the subpoena. The record does not establish that Chandra made any further inquiry before trial regarding the status of the motion or attempted to obtain the requested records after the motion was granted. Accordingly, the inability to obtain the records was not attributable to a ruling by the trial court prohibiting Chandra from pursuing the records.

{¶59} More importantly, Chandra sought the telephone records because she believed they might show that E.D. was using her telephone at or near the time of the collision. The record, however, contains no evidence that E.D. was using her telephone immediately before or at the time of the accident. Sergeant Grimm testified that he did not ask either driver whether she had been using a telephone. (Tr. at 33.) E.D. did not testify that she had been using her telephone, and Chandra did not identify any evidence establishing that she had.

{¶60} Nor did the absence of the telephone records prevent Chandra from presenting her defense concerning how the collision occurred. E.D. testified that she remained in her lane and that Chandra's vehicle turned into her path. Chandra testified that she intended to turn left but was waiting for oncoming traffic and denied initiating the turn before the collision. Sergeant Grimm testified that Chandra initially stated that she was making a left turn and that the physical evidence at the scene supported E.D.'s account. Brown offered a different interpretation of the physical evidence and testified that the damage to Chandra's vehicle was consistent with a head-on collision.

{¶61} Thus, the record demonstrates that Chandra was able to challenge E.D.'s account of the collision and present evidence supporting her own version of events. The

requested telephone records would have provided, at most, additional evidence concerning whether E.D. was using her telephone. Chandra has not identified evidence establishing that E.D. was using her telephone, much less evidence demonstrating that any telephone use caused or contributed to the collision.

{¶62} Under these circumstances, the trial court reasonably determined that the requested telephone records did not warrant excluding E.D.'s testimony or delaying the trial. The records were speculative in their potential relevance, and Chandra has not demonstrated that their absence prevented her from presenting her defense or otherwise affected a substantial right.

{¶63} Accordingly, Chandra has not demonstrated that the trial court abused its discretion in denying her motion in limine.

{¶64} Chandra's second assignment of error is overruled.

III.

{¶65} In her third assignment of error, Chandra argues the trial court committed plain error and violated her constitutional rights to compulsory process and to present a defense by failing to notify her that the court had granted her motion to appoint a process server.

Governing Law

{¶66} The Sixth Amendment to the United States Constitution guarantees a criminal defendant the right to compulsory process for obtaining witnesses in his or her favor. The right is a fundamental component of a defendant's ability to present a defense and applies to the states through the Fourteenth Amendment. *Washington v. Texas*, 388 U.S. 14, 19 (1967). Likewise, the Supreme Court of Ohio has recognized that the right to present witnesses in

one's defense is a fundamental element of due process. *Lakewood v. Papadelis*, 32 Ohio St.3d 1, 4-5 (1987); *see also State v. Chandler*, 2017-Ohio-9279, ¶ 20 (5th Dist.).

{¶67} The Compulsory Process Clause guarantees a defendant the right to government assistance in compelling the attendance of witnesses and the right to present evidence that may affect the determination of guilt. *Pennsylvania v. Ritchie*, 480 U.S. 39, 56 (1987); *State v. Johnson*, 1997 Ohio App. LEXIS 1104, *6 (5th Dist. Mar. 5, 1997); *State v. Brown*, 1991 Ohio App. LEXIS 2449, *7-8 (5th Dist. May 13, 1991).

{¶68} The right, however, is not absolute. A defendant must demonstrate more than the mere absence of a witness or evidence. To establish a violation of the right to compulsory process, a defendant must make "a plausible showing" that the testimony or evidence sought would have been both material and favorable to the defense, rather than merely cumulative of evidence presented at trial. *United States v. Valenzuela-Bernal*, 458 U.S. 858, 867, 873 (1982); *Johnson* at *6-7; *Brown* at *8.

{¶69} Chandra concedes that she did not raise this issue in the trial court. Constitutional rights may be lost as finally as any others by a failure to assert them at the proper time. *State* v. *Davis*, 1 Ohio St. 2d 28; *State v. Childs*, 14 Ohio St.2d 56, 62 (1968).

{¶70} We therefore review her claim for plain error. *See* Crim.R. 52(B); *State v. Long*, 53 Ohio St.2d 91, 96 (1978).

Plain Error

{¶71} Crim.R. 52(B) provides that "[p]lain errors or defects affecting substantial rights may be noticed although they were not brought to the attention of the court." Courts should notice plain error "with the utmost caution, under exceptional circumstances and only to

prevent a manifest miscarriage of justice." *State v. Barnes*, 2002-Ohio-68, ¶ 21, quoting *Long* at paragraph three of the syllabus.

{¶72} The Supreme Court of Ohio has explained that plain-error review requires three findings:

> (1) there must be an error, (2) the error must be plain, and (3) the error must affect 'substantial rights.'" *State v. Barnes*, 2002-Ohio-68, ¶ 20. An error is "plain" when it constitutes an "obvious" defect in the trial proceedings. *Id.* At a minimum, an appellate court cannot correct an error under Crim.R. 52(B) unless the error is clear under current law. *United States v. Olano*, 507 U.S. 725, 734 (1993), *superseded on other grounds by rule as recognized in United States v. Kelly, 875 F.3d 781 (5th Cir. 2017).* To establish that an error affected substantial rights, the defendant must demonstrate that the error affected the outcome of the trial. *Barnes* at ¶ 20. Even when the three requirements are satisfied, appellate courts have discretion to determine whether to correct the error. *Id.* at ¶ 21.

State v. Bradley, 2026-Ohio-3771, ¶ 15.

{¶73} Chandra cannot establish plain error because she has not demonstrated that the telephone records would have been material or favorable to her defense.

{¶74} As discussed in our resolution of Chandra's second assignment of error, her contention that E.D. was using her telephone at the time of the collision is entirely speculative. The record contains no evidence that E.D. was using her telephone immediately before or at the time of the accident. Sergeant Grimm testified that he did not ask either driver whether she had been using a telephone. (Tr. at 33.) E.D. did not testify that she had been using her telephone, and Chandra identified no other evidence establishing otherwise.

{¶75} More importantly, Chandra has not explained what the telephone records would have shown or how they would have affected the determination of her guilt. At most, the records might have established that E.D. used her telephone at some point near the time of the collision. Chandra has not demonstrated that such evidence would establish that E.D. was using the telephone at the precise time of the collision, much less that she was distracted by the telephone or that such use caused or contributed to the accident.

{¶76} The record also demonstrates that Chandra was able to present her defense concerning the circumstances of the collision. E.D. testified that she remained in her lane and that Chandra's vehicle turned into her path. Chandra challenged that account through her own testimony and through Brown's expert testimony concerning the physical evidence. Brown testified that the damage to Chandra's vehicle was consistent with a head-on collision rather than the type of collision Sergeant Grimm believed occurred. Thus, Chandra was not deprived of the opportunity to present evidence concerning the cause of the accident.

{¶77} Even assuming, without deciding, that the trial court should have expressly notified Chandra that it had granted her motion to appoint a process server, Chandra has not established that the alleged failure affected her substantial rights. The record does not establish that the requested telephone records contained evidence favorable to Chandra, that the records would have materially advanced her defense, or that their absence affected the outcome of the trial.

{¶78} Accordingly, Chandra has failed to establish any plain error, much less plain error affecting the outcome of her trial. Her claim therefore does not warrant reversal.

{¶79} Chandra's third assignment of error is overruled.

{¶80} The decision of the Barberton Municipal Court, Summit County, Ohio is affirmed. Costs are to be paid by appellant Sai Chandra.

By: Popham, J.

Baldwin, P.J. and

Gormley, J., concur

HON. KEVIN W. POPHAM

HON. CRAIG R. BALDWIN

HON. DAVID M. GORMLEY

KWP: 1109 JM