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Ohio Fifth District Court of Appeals Case Summaries

Case Type	Case Caption	Case No(s)	Character of Proceeding	Judgment	Topics and Issues	Author	Date of Judgment Entry
Criminal	STATE VS. ROBERT LEE MOORE, JR.	Case No. 2024 CA 000018	Appeal from the Guernsey County Court of Common Pleas, Case No. 2023 CR 000201	Affirmed	Denial of motion to suppress; turn signal violation Moore, Jr. appealed the judgment denying his motion to suppress evidence obtained during a traffic stop. Moore claimed he did not commit a traffic violation when he drove from Dewey Avenue onto North 5th Street without using a turn signal, arguing the movement was a slight curve, not a turn requiring signaling under Ohio law. However, the court found that Dewey Avenue ends at Wheeling Avenue, and due to the road structure and traffic signals, Moore's maneuver required crossing Wheeling Avenue and bearing left, constituting a turn. The Lieutenant observed Moore make this turn without signaling, which gave him probable cause to stop Moore. The appellate court agreed with the trial court, holding the traffic stop was lawful and affirming the denial of the motion to suppress.	Smith, J.	4/14/2025
Criminal	STATE VS. WILLIS RICARDO KENNEDY	Case No. 2024 CA 00035	Appeal from the Stark County Court of Common Pleas, Case No. 2023 CR 1475	Affirmed	Motion in limine, manifest weight of the evidence; self-defense; curative jury instruction Kennedy appealed his convictions for murder and felonious assault, challenging multiple aspects of his trial. He argued the trial court erred in allowing the prosecution to refer to K.G. as the "victim," but the appellate court found he failed to object during trial or cite specific instances, waiving the issue. Kennedy also claimed his conviction was against the manifest weight of the evidence, asserting he acted in self-defense. However, evidence showed he attacked the victim from behind, and the State proved he initiated the confrontation and did not reasonably believe deadly force was necessary. Kennedy further argued that the State failed to disprove self-defense, but the court clarified that the burden of production for self-defense lies with the defendant. Lastly, Kennedy claimed error in the trial court's failure to give curative instructions after certain objections were sustained, but the court noted he never requested such instructions and thus waived the argument. The appellate court affirmed the conviction.	Hess, J.	4/14/2025
Criminal	STATE VS. MICHAEL L. SMITH	Case No. 24 CA 40	Appeal from the Guernsey County Court of Common Pleas, Case No. 19 CR 312	Affirmed	Pro se untimely challenge of guilty plea and sentencing; trial court properly advised defendant potential sentence; not entitled to free transcript Smith appealed the denial of his motions to withdraw his guilty plea and to obtain transcripts at the state's expense. He argued his plea was not made knowingly, intelligently, and voluntarily, that he received ineffective assistance of counsel, and that he was entitled to a transcript despite missing the appeal deadline in 2020. The appellate court affirmed the trial court's decision, finding no error. It held that Smith was not entitled to a free transcript years after failing to file a timely appeal, and that his guilty plea was valid. The court found Smith misinterpreted the sentencing statutes and failed to demonstrate ineffective counsel. His claim that the court failed to inform him of sex offender registration duties was contradicted by the record, which showed he was properly advised. The court also ruled that all his arguments were barred by claim preclusion, as they could have been raised in a timely direct appeal.	Gormley, J.	4/14/2025
Criminal	STATE VS. KODY BELL	Case No. 24AP0009	Appeal from the Morgan County Court of Common Pleas, Case No. 23-CR-0044	Affirmed	Anders Bell appealed the sentence he received after pleading guilty to seven counts of pandering obscenity involving a minor. He was sentenced to a minimum of six years on each count, to be served concurrently, with a maximum of nine years, and was designated a Tier III sex offender, as stipulated in the plea agreement. His appellate counsel filed an Anders brief, indicating no meritorious grounds for appeal, and Bell did not submit a pro se brief. Bell claimed the sentence was disproportionate and burdensome, but the court found the sentence was authorized by law, within statutory limits, and based on a joint recommendation by both parties. Therefore, under R.C. 2953.08(D)(1), the sentence was not subject to appeal. The court also found no evidence of ineffective assistance of counsel. Concluding the appeal was wholly frivolous, the court granted counsel's motion to withdraw and affirmed the trial court's judgment.	Baldwin, P.J.	4/14/2025
Criminal	STATE VS. DERRICK ALLISON	Case No. 24CA000029	Appeal from the Guernsey County Court of Common Pleas, Case No. 23-CR-134	Affirmed	Suppression; marked lanes violation Allison appealed his conviction and 24-month prison sentence for failing to comply with a police officer's signal, arguing the trial court erred in denying his motion to suppress evidence. He claimed the dash cam video did not support a reasonable suspicion for the traffic stop based on a marked lanes violation. However, the trial court found, based on both the trooper's testimony and its own review of the video, that Allison's vehicle crossed the center line at least twice. The appellate court agreed, concluding the trooper had a reasonable suspicion to justify the stop and that the trial court properly denied the motion to suppress.	Hoffman, P.J.	4/16/2025

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Criminal	STATE VS. CAMERON L. BERNARDO	Case No. 2024 CA 00088	Appeal from the Licking County Court of Common Pleas, Case No. 2024 CR 00140	Affirmed	Trial judge's decision that an attempted-murder defendant failed to prove his affirmative defense of not guilty by reason of insanity was supported by the evidence; experts' evaluations suggested that voluntary intoxication may have been the reason for defendant's psychotic symptoms Bernardo was convicted of attempted murder and felonious assault after a bench trial. He pled not guilty by reason of insanity, supported by two psychological evaluations suggesting he may not have understood the wrongfulness of his actions due to severe mental illness. However, both expert evaluations also noted his symptoms were consistent with voluntary intoxication, particularly due to his history of methamphetamine use. The trial judge concluded that Bernardo failed to prove legal insanity, attributing his behavior to voluntary drug use instead. Bernardo appealed, claiming the judge misinterpreted the expert evaluations, but the appellate court found sufficient evidence supporting the judge's decision and affirmed the convictions.	Gormley, J.	4/17/2025
Civil	CASSANDRA WILTZ, ET AL. VS. DR. CHAD MICHAEL MILLER, ET AL.	Case No. 24CAE 08 0051	Appeal from the Delaware County Court of Common Pleas, Case No. 24-CVH-04-0331	Affirmed	Vexatious litigator Cassandra Wiltz argued that the trial court erred in declaring her a vexatious litigator under R.C. 2323.52. She claimed she was denied due process, was not properly served with the counterclaim, and that the court's decision was retaliatory and based on false information. However, the Court of Appeals found the trial court acted within its authority and followed proper procedure. The court noted that Wiltz had filed 41 cases in Ohio courts since 2009, many of which were dismissed or decided against her, and her filings were often repetitive, meritless, and intended to harass or delay. The appellate court found no evidence of bias or misconduct and held that the vexatious litigator designation was supported by the record.	Popham, J.	4/11/2025
Civil	CHAD A. BUCKALEW VS. CONCORD MANOR, LTD, ET AL.	Case No. 2024 CA 00041	Appeal from the Fairfield County Common Pleas Court, Case No. 2022 CV 00645	Affirmed	Summary judgment; landlord duties; fit and habitable condition; issues of material fact; negligence per se Buckalew appealed the trial court's decision granting summary judgment in favor of his landlords, Concord Manor, LTD and Concord Manor II, LLC. Buckalew claimed he fell due to water from a leaking kitchen sink pipe and argued the landlords violated their statutory duty under R.C. 5321.04(A)(2) by failing to fix it. The trial court found the leak did not make the apartment unfit or uninhabitable and thus did not constitute a statutory violation. The appellate court agreed, finding no evidence that the leak significantly interfered with the apartment's habitability. Therefore, the court upheld the ruling that Concord did not breach its statutory duty.	Montgomery, J.	4/15/2025
Domestic Relations	DUSTIN MATTHEW KREIS VS. CAITLIN REBECCA DOLLINGS	Case Nos. CT2024-0135 CT2024-0136	Appeal from the Muskingum County Court of Common Pleas, Domestic Relations Division, Case Nos. DE2022-0523 and DE2024-0449	Affirmed	Mother did not waive right to move or disqualification; evidentiary hearing not required; trial court properly applied Dana test Plaintiff Dustin Matthew Kreis argued that the trial court erred in disqualifying Attorney Benbow from representing him. The Court of Appeals found that Attorney Benbow had previously represented Dollings in a divorce case involving the father of her child, L.D., during which she discussed custody arrangements for L.D. The record contained no evidence that Dollings' delay in seeking disqualification caused Kreis to alter his position in reliance on her silence about Attorney Benbow's prior representation. Additionally, Kreis failed to show that obtaining new counsel would result in material prejudice. While Kreis claimed the trial court misapplied the Dana test, the first prong was satisfied: Attorney Benbow had previously represented Dollings in a related matter and is now representing a party adverse to her.	Gormley, J.	4/14/2025
Juvenile	IN RE: G.M.	Case No. 2025 AP 01 0003	Appeal from the Tuscarawas County Court of Common Pleas, Case No. 24JN00291	Affirmed	Legal Custody Maternal Grandmother M.M. appealed the juvenile court's decision dismissing her motion for legal custody of G.M., arguing it was wrongly deemed untimely under Juvenile Rule 22(E). The court had previously denied her motion to intervene, and she filed for custody less than seven days before the dispositional hearing. The Fifth District Court of Appeals upheld the dismissal, finding that custody motions must comply with the timing requirements of Juv.R. 22(E), and Grandmother failed to object or demonstrate plain error timely. The judgment keeping G.M. in the temporary custody of Job and Family Services was affirmed.	King, J.	4/17/2025
Juvenile	IN RE: C.B.	Case No. 2024CA0004	Appeal from the Morrow County Court of Common Pleas, Juvenile Division, Case No. 2021JD0059	Affirmed	Minor adjudicated delinquent; rape; manifest weight; sufficiency Appellant C.B. argued that the trial court violated his right to confront the witnesses against him. The Court of Appeals concluded that, in Arnold, the victim's statements were made for the purpose of medical diagnosis and treatment. Furthermore, the appellant had the opportunity to cross-examine the victim's parents, K.C. and T.C., about the circumstances surrounding those statements.	Hoffman, P.J.	4/16/2025

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