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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. JACOB JOHNSON	Case No. 2024 CA 00076	Appeal from the Licking County Municipal Court, Case No. 2024 CR B 00711	Affirmed	Manifest weight Johnson appeals his conviction for one count of public indecency, a second-degree misdemeanor. He was sentenced to 90 days in jail (with 44 days credited and 46 days suspended), one year of probation, and required mental health and substance abuse assessments. Johnson claims his conviction is against the manifest weight of the evidence, arguing the trial court improperly speculated that he was under the influence during the offense. However, the court noted this speculation actually benefited Johnson and based the conviction primarily on the credible testimony of a witness, M.W. The appellate review finds Johnson's argument unsupported by the record and concludes this is not an exceptional case where the evidence strongly weighs against the conviction.	King, J.	4/28/2025
Criminal	STATE VS. JAMES M. BARNETT	Case No. 2024 AP 06 0019	Appeal from the Tuscarawas County Court of Common Pleas, Case No. 2023 CR 04 0135	Reversed and Remanded	Sentencing; harmless error The appellant challenged his sentence for convictions of Possession of Cocaine and Reckless Operation of a Vehicle, arguing that the trial court erred by sentencing him to jail without allowing him to address allegations that he missed a presentence investigation interview. He had agreed to a plea deal recommending community control sanctions, but the court imposed six months in jail, citing his failure to attend the interview and his unsuitability for community sanctions. The appellate court found the trial court relied on disputed facts without giving the appellant a chance to respond and that this error was not harmless. As a result, the sentence was reversed and the case remanded for further proceedings.	Baldwin, P.J.	4/28/2025
Criminal	STATE VS. PEDRO GARCIA	Case No. CT2024-0139	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2024-0509	Affirmed	Sentencing Garcia was indicted on multiple felony charges, including engaging in a pattern of corrupt activity, aggravated theft, breaking and entering, tampering with evidence, and possessing criminal tools, all with forfeiture specifications. The trial court, considering his extensive criminal history, a pending warrant in Georgia, and evidence the crimes were premeditated, sentenced Garcia to an indefinite term of 11 to 16.5 years for the most serious charge and additional time for others, totaling 14 to 19.5 years of consecutive prison time. Garcia appealed, arguing his maximum and consecutive sentences were contrary to law, claiming the offenses weren't among the worst, that reoffending wasn't properly considered, and that the sentences were disproportionate. The appellate court rejected these arguments, finding the trial court acted within statutory guidelines, properly supported its findings, and did not rely on impermissible factors. The sentence was upheld.	King, J.	4/28/2025
Criminal	STATE VS. JOSHUA P. TEEPLE	Case No. 24CA000034	Appeal from the Guernsey County Court of Common Pleas, Case No. 24CR47	Affirmed	Correction of sentence by trial judge Joshua Teeple appealed the trial court's imposition of consecutive sentences following his negotiated Alford plea. The Court of Appeals held that although the trial judge failed to make the required findings at the initial sentencing, the judge could hold a limited hearing to correct the omission without conducting a full resentencing, as no final judgment had been entered under Criminal Rule 32(C).	Popham, J.	4/28/2025
Criminal	STATE VS. STEPHEN HUGHES	Case No. 2024 CA 0016	Appeal from the Richland County Court of Common Pleas Case No. 2023 CR 365	Affirmed	Rape convictions affirmed despite improper witness testimony vouching for child victim's credibility; prior consistent statement of one victim was properly admitted; inclusion of some irrelevant jury instructions was not plain error Hughes was convicted of three counts of rape and three counts of gross sexual imposition involving three girls under the age of ten, after one of the victims, E.M., testified that Hughes sexually abused her and her sisters while they stayed at a relative's home. Witnesses also testified to the girls' sexually explicit behaviors and statements linking the conduct to Hughes. On appeal, Hughes argued that the trial court admitted improper testimony and gave irrelevant jury instructions. The Fifth District acknowledged several errors, including hearsay and credibility opinions, but held they were harmless given E.M.'s detailed testimony and supporting evidence. The convictions were affirmed.	Gormley, J.	4/30/2025

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Criminal	STATE VS. ROGER RICE	Case No. 24CA015	Appeal from the Holmes County Municipal Court, Case Nos. 23TRD1661, 23TRD1662 & 23CRB183	Affirmed	Reliable, credible evidence supporting judge's finding that appellant was not competent and not restorable Rice was charged with multiple misdemeanors, including resisting arrest and driving under suspension, but was ultimately found incompetent to stand trial. Despite being ordered to undergo several competency evaluations, Rice repeatedly refused to cooperate and insisted he could represent himself. A psychological report concluded he was not competent and could not be restored within the statutory timeframe. Rice objected to the court's decision and requested to cross-examine the evaluator, but the trial court denied the request and dismissed the charges. The Fifth District affirmed, finding sufficient evidence supported the trial court's ruling.	Popham, J.	4/30/2025
Criminal	STATE VS. ZACHARY NEW	Case Nos. CT2024-0114, CT2024-0115	Appeal from the Muskingum County Court of Common Pleas Case Nos. CR2023-0799 and CR2024-0575	Affirmed	Anders brief; no error where defendant pled guilty and received sentences withing statutory range New pled guilty to multiple fifth-degree felonies in Muskingum County, including possession of fentanyl, cocaine, methamphetamine, and receiving stolen property. After initially failing to appear for sentencing, New was later apprehended, and a bag of methamphetamine fell from his pocket during a foot chase. He received an aggregate 34-month prison sentence, which included time for committing new offenses while on post-release control. On appeal, counsel filed an Anders brief, stating no non-frivolous issues existed. The Fifth District agreed, finding the plea hearings proper, the sentence lawful, and the appeal frivolous. The judgment was affirmed.	Gormley, J.	4/30/2025
Criminal	VILLAGE OF BUCKEYE LAKE VS. REBECCA SHEETS	Case Nos. 2024 CA 0077 : 2024 CA 0078	Appeal from the Licking County Municipal Court, Case Nos. 24 CRB 00471 and 24 CRB 00472	Affirmed	Res judicata and collateral estoppel; criminal and civil nuisance; manifest weight and sufficiency of the evidence Sheets appealed the trial court's denial of her motion to dismiss and her conviction for zoning and property maintenance violations in Buckeye Lake. She argued that the legal doctrines of res judicata and collateral estoppel should bar the case due to a related dismissal in Common Pleas Court. The appellate court rejected this, stating that the civil and municipal matters were distinct, and the earlier dismissal did not resolve all claims. Additionally, the civil penalties were not criminal in nature, so the doctrines did not apply. The court also found sufficient evidence to support the trial court's decision and ruled that the verdict was not against the manifest weight of the evidence. Her appeal was denied on all grounds.	Baldwin, P.J.	5/2/2025
Criminal	STATE VS. JAMES MATICS	Case No. 24CA000031	Appeal from the Guernsey County Court of Common Pleas, Case No. 21-CR-286	Affirmed	Fourth amendment; search and seizure; lawful arrest; search incident to lawful arrest; motion to suppress; probable cause; police encounters Appellant indicted for Aggravated Possession of Drugs, a third-degree felony. Prior to trial, he moved to suppress evidence, arguing that Officer Gombeda unlawfully exceeded the scope of a detention by retrieving and searching Appellant's wallet, leading to the discovery of drugs and subsequent searches. Appellant contended the evidence was inadmissible as fruit of the poisonous tree. After an evidentiary hearing, the trial court denied the motion, ruling the search was lawful as incident to arrest. Appellant later entered a no contest plea and received an 18-month prison sentence, to run consecutively with sentences in two other counties. On appeal, Appellant did not dispute the factual record but challenged the legal conclusion regarding the search. The appellate court affirmed the trial court's decision, holding that Officer Gombeda acted in good faith based on dispatch information and that the search of the wallet was a valid search incident to arrest due to the existence of two outstanding warrants. The Civil damages	Montgomery, J.	5/1/2025
Civil	AMIRAH SULTAANA, ON BEHALF OF AKEEM SULTAANA VS. TAYUAN ARRINGTON	Case No. 2024-CA-0050	Appeal from the Richland County Court of Common Pleas, Case No. 23CV238N	Affirmed	Hakeem Sultaana filed a civil complaint for assault against Tayuan Arrington following an incident while both were incarcerated. After Arrington failed to respond, the trial court granted default judgment and scheduled a hearing on damages. Despite multiple continuances to accommodate Sultaana, he failed to appear for the hearing. The magistrate awarded \$3,002 in compensatory and \$6,000 in punitive damages based on the record. Sultaana filed no objections, and the trial court adopted the decision. His mother later appealed on his behalf, but the Fifth District affirmed, finding the appeal procedurally defective and lacking any basis for plain error review.	King, J.	4/30/2025
Civil	JESSIE PASSWATERS, ET AL. VS. JAYTEE NOVARIA, ET AL.	Case No. CT2025-0004	Appeal from the Muskingum County Court of Common Pleas, Case No.CH2024-0148	Dismissed	No final appealable order Jessie and Mandi Passwaters sued Jaytee and Christina Novaria, alleging the Novarias obstructed an easement on their property by erecting a fence and parking vehicles within it. The trial court granted partial summary judgment in favor of the Passwaters, ordering the Novarias to remove the fence and refrain from using or obstructing the easement. The Novarias appealed, but the Fifth District dismissed the appeal, finding the trial court's order was not final and appealable because it did not resolve all claims or include the required Civ.R. 54(B) language. The case remains pending at the trial court.	Popham, J	4/30/2025

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Civil	TAMMY S. PULLEY, ET AL. VS. VANESSA L. VOYTKO, M.D., ET AL.	Case No. CT2024-0129	Appeal from the Muskingum County Court of Common Pleas, Case No. CA2024-0242	Reversed and Remanded	Statue of repose Tammy and Joseph Pulley filed a medical malpractice suit against Dr. Vanessa Voytko, Orthopedic Associates of Zanesville, and Southeastern Med, alleging Tammy suffered a foot drop following hip surgery in 2020. The trial court granted judgment on the pleadings for the defendants, ruling the claim was barred by Ohio's four-year medical statute of repose and applying a newly amended version of R.C. 2305.15 retroactively. On appeal, the Fifth District reversed in part, finding the trial court erred by applying the amended statute retroactively, as it became effective after the complaint was filed. The case was remanded for further proceedings against Dr. Voytko, while the court affirmed dismissal as to the remaining defendants.	Baldwin, P.J.	5/2/2025
Juvenile	IN RE: J.M.	Case No. CT2024-0130	Appeal from the Muskingum County Court of Common Pleas, Juvenile Division, Case No. 22320425	Affirmed	R.C.3119.02; adoptive parents obligated to pay child support for child living with third party; legal custodian's income not considered when determining child support; R.C.3119.82; adoptive parents not entitled to tax dependency exemption for child in care of legal custodian when parents failed to show best interest; adoption subsidy is for the benefit of the child; therefore follows the child Dennis and Laura McGreevy appealed a judgment requiring them to pay child support and transfer adoption assistance payments to the legal custodians of their adopted child, who had been adjudicated unruly and placed in third-party custody. They argued the trial court erred by failing to consider the custodians' income, misallocating the tax exemption, and lacking authority to redirect adoption subsidies. The Fifth District affirmed, finding the court properly followed child support statutes, acted within its discretion in allocating the exemption, and had authority to ensure adoption payments were used for the child's benefit.	Hoffman, P.J.	4/30/2025
Probate	IN THE ADOPTION MATTER OF: J.D.P., V.C.P., A.E.S.P., & K.A.P.	Case Nos. 2024 CA 0082, 2024 CA 0083, 2024 CA 00084, & 2024 CA 0085	Appeal from the Richland County Court of Common Pleas, Probate Division, Case Nos. 20245016, 20245017, 20245018, 20245019	Affirmed	Grandparent adoption; mother's failed to object to trial court's jurisdiction; therefore waived any error; consent to adoption waives challenge to best interest and consent findings; probate court has jurisdiction over adoption even when parenting issues remain pending in juvenile court Maternal grandparents petitioned to adopt four minor children due to the biological parents' history of drug abuse and repeated custody removals by Richland County Children Services. After determining that the parents failed to provide support or maintain contact for over a year, the probate court found their consent to the adoption was not required. The court also denied the paternal grandmother's motion to intervene but noted an informal visitation "gentleman's agreement" between her and the maternal grandparents. Both parents and the paternal grandmother appealed, raising jurisdictional and procedural claims. The Fifth District Court of Appeals affirmed, finding no error or abuse of discretion by the probate court.	Hoffman, J	4/30/2025