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Ohio Fifth District Court of Appeals Case Summaries

Case Caption	Case No(s)	Character of Proceeding	Judgment	Topics and Issues	Author	Date of Judgment Entry
State v. Hayes	CT2025-0056	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2024-0696	Affirmed	Consecutive sentences Austin Hayes appealed his sentence from the Muskingum County Court of Common Pleas, arguing that the trial court improperly imposed consecutive sentences after he pled guilty in two separate cases to two counts of gross sexual imposition and eight counts of violating a protection order. The trial court sentenced Hayes to 36 months on the gross sexual imposition counts to run concurrently, six months on each protection-order violation to run consecutively, and ordered the two cases to run consecutively for an aggregate prison term of 84 months, also classifying him as a Tier II sex offender. On appeal, the court found that the trial court made all required statutory findings under R.C. 2929.14(C)(4), properly considered the purposes and principles of sentencing, and that the record supported consecutive sentences given Hayes's extensive criminal history, repeated and egregious violations of court orders—including hundreds of prohibited jail contacts with a victim—and a demonstrated pattern of escalating criminal behavior. Applying the deferential standard of review required by statute, the appellate court concluded the sentence was not contrary to law and affirmed the judgment.	Montgomery	12/15/2025
State v. Kennedy	CT2025-0037	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2024-0716	Affirmed	Anders Kaisean Kennedy appealed his conviction and sentence following a negotiated guilty plea in the Muskingum County Court of Common Pleas, but the appellate court affirmed after determining the appeal was wholly frivolous under <i>Anders v. California</i> . Kennedy was arrested after being found passed out in a running vehicle and in possession of fentanyl, a firearm, cash, and drug-related items, leading to multiple felony and misdemeanor charges. He ultimately pled guilty to trafficking in a fentanyl-related compound, having weapons while under disability, and OVI, with the remaining counts dismissed, and the parties jointly recommended a three-year prison term. After reviewing a presentence investigation, the trial court imposed consecutive sentences totaling five years, plus a mandatory one-year firearm specification, along with mandatory fines and forfeiture. On appeal, counsel filed an <i>Anders</i> brief, and Kennedy filed a pro se argument claiming he expected a shorter sentence and should have been allowed to withdraw his plea. The appellate court found the guilty plea was knowingly, intelligently, and voluntarily entered, the sentence and fines were lawful and within statutory ranges, the trial court was not bound by the joint sentencing recommendation, and no meritorious issues supported reversal, granting counsel's motion to withdraw and affirming the judgment.	Popham	12/15/2025
State v. Vanvalkenburg	2025 CA 00067	Appeal from the Licking County Court of Common Pleas, Case No. 2025 CR 00405	Vacated and Remanded	Operating a Vehicle Impaired ("OVI") sentencing; Waiver of fine The State of Ohio appealed the sentence imposed after Paul Vanvalkenburg pled guilty to two fourth-degree felony OVI offenses based on having at least five prior OVI convictions within twenty years. Although the trial court properly accepted the plea, merged the counts, and imposed a 24-month prison sentence, it also imposed and then waived a \$1,350 fine based on Vanvalkenburg's indigency. On appeal, the court held that the sentence was contrary to law because R.C. 4511.19(G)(1)(d)(iii) mandates a fine of between \$1,540 and \$10,500 for felony OVI offenses and does not permit waiver, regardless of indigency. Relying on established precedent, the appellate court concluded the trial court lacked discretion to waive the mandatory fine and also misstated the required fine amount. Accordingly, the appellate court vacated the sentence and remanded the case for resentencing consistent with the statutory requirements.	Baldwin	12/15/2025
State v. Beall	2025CA00024	Appeal from the Stark County Massillon Municipal Court, Case No. 2024-CRB-01934	Affirmed	Marsy's Law - crime victim has standing to file a direct appeal only when the trial court denies the enforcement of his or her constitutional rights Darlene and Kilina Jellel appealed a February 19, 2025 Massillon Municipal Court judgment that found their neighbor, Samuel Beall, guilty of misdemeanor criminal damaging or endangering for spraying a security camera with a hose and ordered him to pay \$99 in restitution, which he paid the same day. On appeal, the Jellels raised 21 assignments of error alleging wide-ranging violations of Marsy's Law, judicial bias, prosecutorial misconduct, evidentiary errors, improper restitution, and retaliation against Kilina Jellel for unauthorized practice of law. The appellate court noted the appellants' brief failed to comply with App.R. 16 and that no trial transcript was provided, requiring the court to presume regularity in the proceedings. After reviewing the claims, the court held that the trial court did not violate Marsy's Law, properly limited restitution to the economic loss tied to the charged offense, and that most alleged errors were either unsupported by the record or outside the narrow scope of issues victims have standing to appeal under Marsy's Law. Accordingly, the appellate court overruled all assignments of error and affirmed the municipal court's judgment.	Hoffman	12/15/2025
Foster v. Stuff	2025 CA 0062	Appeal from the Richland County Court of Common Pleas, Case No. 2025CV213N	Affirmed	Writ of Habeas Corpus Terry Foster, an inmate at the Richland Correctional Institution, appealed the July 29, 2025 judgment of the Richland County Court of Common Pleas granting Warden Angela Stuff's motion for summary judgment on his habeas corpus petition. Foster, who had previously been convicted of murder, involuntary manslaughter, and drug trafficking and sentenced to an aggregate term of 21 years to life, falsely claimed his convictions had been vacated and his sentence had expired. The court found Foster's petition barred because (1) he had an adequate legal remedy through prior direct appeals, (2) his claims were barred by <i>res judicata</i> , (3) he failed to comply with R.C. 2969.25(A) regarding disclosure of prior civil actions, and (4) his sentence had not expired, making him ineligible for habeas relief. Additionally, Foster's pro se appellate brief failed to comply with App.R. 16. Accordingly, the appellate court affirmed the trial court's judgment dismissing Foster's petition.	King	12/15/2025

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State v. Roberts	2025CA0002	Appeal from the Morrow County Court of Common Pleas, Case No. 2024-CR-0085	Affirmed	Sixth amendment Mikal Roberts appealed his conviction for Failure to Comply with an Order or Signal of a Police Officer in the Morrow County Court of Common Pleas, arguing that his counsel's concession of guilt at trial violated his Sixth Amendment and Ohio Constitution rights to control the objectives of his defense. At trial, Roberts had been acquitted of Felonious Assault and Failure to Stop after an Accident, but found guilty of the failure-to-comply charge. On appeal, Roberts contended that counsel's concession constituted structural error, citing McCoy v. Louisiana. The court found, however, that the record contained no express statement by Roberts asserting his desire to maintain innocence, and therefore counsel's concession did not violate his constitutional rights. The appellate court overruled Roberts' sole assignment of error and affirmed the trial court's judgment.	Baldwin	12/15/2025
State v. Tower	2025 CA 00021	Appeal from the Fairfield County Municipal Court, Case No. TRC 2407425	Affirmed in part, reversed in part, remanded for resentencing	Suppression - Identified Citizen Informant - Alternative Sentencing Jeffrey Tower appeals his Fairfield County Municipal Court conviction for operating a vehicle under the influence of alcohol following a no-contest plea, challenging the denial of his motion to suppress evidence from a traffic stop initiated after a 911 call by a Taco Bell employee who reported his erratic behavior and an open container of alcohol; the appellate court held the caller was a reliable identified citizen informant and that police had reasonable, articulable suspicion to stop Tower's vehicle despite a minor discrepancy in vehicle color, affirming the conviction. The State cross-appealed the sentence, arguing the trial court improperly imposed an alternative minimum sentence of ten days in jail followed by house arrest for a high-test, second-offense OVI without making the statutorily required finding that jail space was unavailable. The appellate court agreed, sustaining the State's first assignment of error, finding the trial court was required to impose at least twenty consecutive days of jail time, deeming the jail-time-credit issue moot, and remanding the case for resentencing while affirming the conviction.	Hoffman	12/16/2025
Holtz v. Gray	25CA00006	Appeal from the Perry County Municipal Court, Case No. CVG2500136	Affirmed	Forcible Entry & Detainer Daniel Gray appealed the Perry County Municipal Court's judgment granting Martha Holtz a writ of restitution in a forcible entry and detainer action, but the appellate court affirmed because Gray failed to provide transcripts of the municipal court proceedings and no errors were apparent from the record. The record showed that Holtz served Gray with a proper three-day notice to vacate, filed an eviction complaint alleging nonpayment of rent and utilities under an oral lease, and obtained a magistrate's decision finding Gray in default and awarding restitution of the premises. Although Gray filed multiple motions and raised numerous statutory and constitutional arguments on appeal—including alleged defects in the notice, disability accommodations, breach of oral contract, violations of manufactured home park statutes, and issuance of a stale writ—the appellate court held that most claims could not be reviewed without transcripts and therefore presumed the regularity of the trial court proceedings. The court further found no error regarding the notice or the writ of restitution and overruled all assignments of error, affirming the eviction judgment.	Popham	12/17/2025