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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. MARVIN BENSON	Case No. 24CA000026	Appeal from the Guernsey County Court of Common Pleas, Case No. 18-CR-98	Affirmed	Petition for post-conviction release; Res judicata Appellant Benson appealed the judgment following the denial of his petition for post-conviction relief. The appellant argued that the trial court abused its discretion by denying his petition for post-conviction relief. The Court of Appeals rejected Benson's claims, ruling that his first and third claims were barred by res judicata as they had already been litigated on direct appeal. For his second, third, fourth, fifth, and sixth claims, the Court of Appeals determined that those claims were known or could have been known at the time of trial and on direct appeal. Finally, for his seventh, eighth, ninth, and tenth claims, the appellant failed to argue any facts to support his claims. The Court of Appeals found no error in Benson's denial of post-conviction relief and affirmed his conviction.	Baldwin, J.	2/3/2025
Criminal	STATE VS. SHAUN MICHAEL CUNNINGHAM	Case No. 2023 CA 00161	Criminal Appeal from the Stark County Court of Common Pleas, Case No. 2022 CR 02363	Affirmed	Self-defense; rebuttal presumption under 2901.01(B)(2) Appellant Cunningham appealed the judgment following his conviction for murder (R.C. 2903.02) and felonious assault (R.C. 2903.11), both with firearm specifications. Cunningham claimed self-defense, arguing that he shot T.C. while protecting his residence. On appeal, he asserted that the trial court committed plain error by failing to instruct the jury on the rebuttable presumption of self-defense under R.C. 2901.05(B)(2) and that his trial counsel was ineffective for not requesting the instruction. The Court of Appeals rejected both claims, ruling that the presumption did not apply because T.C. was outside the residence when shot. The state had disproven self-defense beyond a reasonable doubt. Finding no plain error or ineffective assistance, the court affirmed Cunningham's conviction.	Wise, J.	2/3/2025
Criminal	TATE VS. JAMES A. R. JONES	Case No. CT2024-0086	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2022-0201	Affirmed	Withdrawal of guilty plea Jones appeals the decision denying his motion to withdraw his guilty plea related to multiple bank robberies. He argues the trial court failed to properly advise him of his rights under Crim.R. 32 and that ineffective assistance of counsel rendered his plea involuntary. He did not raise the advisement issue before the trial court, and he failed to provide the necessary records to support his claims. The appellate court reviewed the plea hearing record, provided by the State, and found that the trial court properly conducted a Crim.R. 11 colloquy. The court also determined there was no abuse of discretion in denying the motion without a hearing, as Jones did not demonstrate a manifest injustice. His claims were further barred by res judicata. The appellate court affirmed the trial court's decision.	Delaney, P.J.	2/3/2025
Criminal	STATE VS. JABRIL BOND	Case Nos. 2024-CA-0009 2024-CA-0010	Appeal from the Richland County Court of Common Pleas, Case Nos. 2023 CR 0362 N & 2023 CR 0752 N	Affirmed	Suppression; search; dog sniff; ineffective assistance Bond appeals his conviction and 20-to-25-year sentence. He was indicted on multiple felony charges related to drug trafficking, drug possession, and participation in a criminal gang. Bond challenges the legality of the traffic stop, arguing that it was impermissibly extended for a canine sniff, but the court found no constitutional violation, as Bond's actions increased officer suspicion and the dog sniff did not add time to the stop. He also claims the canine search was improper due to alleged trespassing and reliability issues, but the court upheld the search, citing proper training and certification. Bond argues that the trial court failed to properly inform him of the effects of his no contest plea and that his plea was not voluntary due to ineffective assistance of counsel. The court rejected these claims, finding that Bond was properly informed and knowingly entered his plea. His dissatisfaction with his sentence does not invalidate his plea. The trial court's judgment was affirmed.	King, J.	2/3/2025
Criminal	STATE VS. JAMES CHARLES HOLLING	Case No. 2024CA00048	Appeal from the Stark County Court of Common Pleas, Case No. 2020 CR 0104	Affirmed	Ineffective assistance of counsel Holling appealed the trial court's decision revoking his community control sanctions and imposing a prison sentence. He argued that the court's judgment contained a clerical error and requested a remand for correction. The appellate court found the error harmless, as Holling failed to demonstrate any impact on his substantial rights. He also claimed ineffective assistance of counsel for not challenging the trial court's jurisdiction in revoking his community control. The court determined that because Holling did not appeal the order extending his community control, he failed to show that his counsel's performance was deficient. The appellate court affirmed the trial court's decision.	Baldwin, P.J.	2/6/2025

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Criminal	STATE VS. CALEB CLEMENS	Case No. 23 AP 0007	Appeal from the Morgan County Court of Common Pleas, Case No. 21-CR-0034	Affirmed	Sufficiency and manifest weight Clemens appealed his conviction for unlawful sexual conduct with a minor, arguing that the evidence was insufficient to prove he acted recklessly regarding the victim's age and that the jury's verdict was against the manifest weight of the evidence. He claimed he was misled about the victim's age and that she did not disclose she was underage. The appellate court found sufficient evidence supporting recklessness, including the victim's prepubescent appearance, Clemens' lack of inquiry into her age, and his immediate actions upon her arrival. The court also determined the jury did not lose its way in convicting Clemens and affirmed the trial court's decision.	King, J.	2/4/2025
Criminal	STATE VS. CHARLES SANDERS	Case No. 24 CAA 06 0037	Appeal from the Delaware County Court of Common Pleas, Case No. 23 CRI 090569	Affirmed	Probable cause stop; indictment not duplicitous Sanders argued that the trial judge erred in denying his motion to suppress, asserting that he was unlawfully detained when the deputy placed him in the back of the patrol car. Upon review, the Court of Appeals determined that the deputies conducted a lawful Terry stop, as they had reasonable suspicion that Sanders or his companion had committed or were about to commit a crime. The deputies observed illegal drug paraphernalia in the vehicle and noted that it had a fictitious license plate. Additionally, the state's allegations of evidence tampering against Sanders and his co-defendant were deemed harmless beyond a reasonable doubt. As a result, the Court of Appeals affirmed the trial court's judgment.		2/7/2025
Criminal	RICHARD N. KING	Case No. CT2024-0124	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2004-0327	Affirmed	Successive post-conviction; Res judicata Appellant Richard King argued that the trial court erred in finding he was convicted of a second-degree felony on count one and that it abused its discretion and committed plain error. The Court of Appeals held that res judicata barred him from repackaging arguments he had raised multiple times before. Citing State v. Lawson, the court overruled his sole assignment of error and affirmed the trial court's judgment.	King, J.	2/7/2025
Civil	ROBERT M. OWENS VS. TERRI M. OWENS VS. HOMELIFE IN THE GARDEN, LLC. ET AL.	Case Nos. 23 CAF110102 24 CAF010007	Appeal from the Delaware County Court of Common Pleas, Domestic Relations Division, Case No. 19 DRA 01 0006	Affirmed	Operating agreement, Piercing the corporate veil, Lis pendens HomeLife in the Gardens, LLC, and Donald E. Rankey, Jr., appealed two Judgment Entries from the Delaware County Court of Common Pleas, Domestic Relations Division, dated October 30 and December 27, 2023. Teri Owens cross-appealed. Due to the same parties and related issues, the Court of Appeals consolidated the appeals. HomeLife in the Gardens, LLC, and Donald E. Rankey, Jr., appealed the trial court's decision awarding Teri Owens \$26,713.13, arguing that Robert Owens' membership interest in HomeLife in the Gardens was contingent upon providing legal services he failed to perform. The Court of Appeals found no written agreement that made Mr. Owens' membership conditional and ruled that his interest was taken improperly without compensation. Ms. Owens cross-appealed the trial court's award of \$7,203 in legal fees to HomeLife in the Gardens. Rankey appealed the denial of his motion for an evidentiary hearing on sanctions, claiming Ms. Owens' attempt to pierce the corporate veil was frivolous. The Court of Appeals affirmed the trial court's decision and found that the membership interest was valid, the lis pendens filing constituted an abuse of process, and the claims against Rankey were not frivolous.	Delaney, P.J.	2/3/2025
Civil	JERRY G. SARBAUGH, TRUSTEE OF THE SARBAUGH KEYSTONE INHERITANCE TRUST DATED FEBRUARY 1, 2007 VS. DONNA MILLER, ET AL.	Case No. CT2024-0014	Appeal from the Muskingum County Court of Common Pleas, Case No. CH2022-0264	Affirmed	Land installment contract; Laches, unjust enrichment Sarbaugh, as Trustee of the Sarbaugh Keystone Inheritance Trust, appealed the trial court's decision denying forfeiture of a land installment contract and ordering the execution of a deed to Donna Miller. Miller and Nathan Johnson had entered into a land contract in 1996 to purchase property, making monthly payments but never receiving a deed. The Trustee argued they breached the contract by failing to obtain insurance, pay taxes, and complete payments within seven years. The trial court found that the contract had been modified by agreement and that Miller had made sufficient payments to satisfy it. The court ruled that the contract was still in effect, ordering the Trustee to transfer the deed and pay restitution for overpayments. The appellate court affirmed, finding the contract enforceable and rejecting claims of breach, unjust enrichment, and laches.	Delaney, P.J.	2/5/2025
Civil	STATE OF OHIO, EX REL. VILLAGE OF MEYERS LAKE, ET AL. VS. GERALD J. MICHEL	Case No. 2023CA00134	Appeal from the Stark County Court of Common Pleas, Case No. 2020 CV 01355	Affirmed	Contempt of an agreed judgment entry Appellant Gerlad Michel appealed the order holding him in contempt for failing to abate nuisances on his properties in violation of a 2021 Agreed Judgment Entry. Despite previous compliance, the conditions deteriorated again, prompting the Village of Meyers Lake to take action. The trial court found that Michel failed to remedy the violations or provide evidence disputing the Village's claims and imposed fines, a jail sentence, and an order for cleanup. Michel also argued that the judge was biased against him, but the Court of Appeals found no evidence of hostility or prejudice. The appellate court affirmed the trial court's decision.	Delaney, P.J.	2/5/2025

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Civil	STATE EX REL. VILLAGE OF BELLVILLE VS. WASHINGTON TOWNSHIP, ET AL.	Case No. 2024 CA 30	Appeal from the Richland County Court of Common Pleas, Case No. 2024 CV 0114	Affirmed	Mandamus precluded by adequate remedy at law Realtor-Appellant Village of Belville appealed the judgment entry of the Court of Common Pleas of Richland County that denied its request for a writ of mandamus. Bellville sought to challenge the contract through a mandamus action, arguing it was unconstitutional, lacked consideration, and imposed an unfair tax burden. However, the court ruled that Bellville had the opportunity to raise these claims in prior litigation and was barred by res judicata. Additionally, the fire protection contract did not violate public policy, as it was a lawful agreement between the parties. The appellate court affirmed the lower court’s ruling, concluding that mandamus was not a substitute for an appeal and that Bellville remained bound by its contractual obligations.	Gwin, P.J.	2/6/2025