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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. MAZZARNEY HARDY	Case No. 2024 CA 0043	Appeal from the Richland County Court of Common Pleas, Case No. 2024CR0165R	Affirmed	Strangulation; physical harm Hardy appealed his conviction, arguing the state did not prove he created a risk of substantial harm to K.D. K.D.'s testimony described being strangled by Hardy's arm to the point of blacking out for 30 seconds. This account was supported by a police officer's next-day observation of red marks and striations on K.D.'s neck and arm, along with both photographic and video evidence of the incident. Citing R.C. 2903.18(B)(3), the appellate court determined the state successfully demonstrated Hardy knowingly caused physical harm to K.D. through strangulation or suffocation.	Popham, J.	3/31/2025
Criminal	STATE VS. SANDRA CRUZ	Case No. 2024 CA 032	Appeal from the Fairfield County Municipal Court, Case No. TRC2400333	Affirmed	Counsel not ineffective for failing to file motion to suppress; OVI conviction not against the manifest weight of the evidence Cruz appeals her conviction for operating a vehicle under the influence, arguing ineffective assistance of counsel and that her conviction was against the manifest weight of the evidence. She claims her trial lawyer was ineffective for failing to file a motion to suppress field sobriety test results. However, the court finds that the tests were conducted in compliance with NHTSA standards and that a suppression motion would not have been granted. The court also rejects her claim that the jury's verdict was against the weight of the evidence, as Trooper Young's testimony and video footage supported her impairment. The court concludes that the jury reasonably found Cruz guilty, affirming her conviction.	Gormley, J.	3/31/2025
Criminal	STATE VS. ISAK HEDGES	Case No. 24AP0008	Appeal from the Morgan County Court of Common Pleas, Case No. 23CR0029	Affirmed	Anders; sentencing; ineffective assistance of counsel Hedges appeals his conviction and sentence after pleading guilty to multiple drug-related offenses, including possession and trafficking of a fentanyl-related compound. He was sentenced to an aggregate prison term of 17 to 22.5 years. His appellate counsel filed a Motion to Withdraw under Anders, asserting the appeal is frivolous. Hedges contends his sentence is grossly disproportionate and challenges the imposition of consecutive sentences. However, the trial court found the sentences necessary for public protection and justified based on the severity and pattern of his offenses. Hedges also claims ineffective assistance of counsel but fails to provide specific examples to support this argument.	Hoffman, J.	4/1/2025
Criminal	STATE VS. KERRIS SOWERS	Case No. CT2024-0111	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2024-0380	Affirmed	Sentencing; consecutive sentences Kerris Sowers argued that the trial court failed to make the necessary findings for imposing consecutive sentences under R.C. 2929.14(C)(4). The Court of Appeals determined that Sowers had agreed to consecutive sentencing as part of her plea negotiations. Although the trial court is generally required to state the R.C. 2929.14(C)(4) findings at sentencing, a jointly recommended consecutive sentence negates this requirement. Once imposed, such a sentence is not subject to review under R.C. 2953.08(D)(1).	King, J.	4/1/2025
Criminal	STATE VS. BRACKEN D. DUCH	Case No. 2024CA00035	Appeal from the Fairfield County Municipal Court, Case No. TRC2402856	Reversed and Remanded	Motion to suppress improperly granted The State of Ohio challenged the trial court's decision to suppress evidence in Bracken Duch's case. On review, the Court of Appeals clarified that in DUI cases, the smell of alcohol coupled with observable eye conditions and an admission of drinking can create a reasonable suspicion of impairment, justifying field sobriety tests. The appellate court reasoned that the scent of burnt marijuana should not be analyzed in the exact same way as the odor of alcohol. Officer McMenamin articulated specific facts that reasonably suggested Duch was driving under the influence, warranting the extended detention for field sobriety testing. These facts included the distinct smell of marijuana, Duch's red and bloodshot eyes, and his admission to smoking marijuana in the vehicle violating (R.C. 3780.36(D)(2)). The appellate court reversed the trial court's judgment and sent the case back for further proceedings.	Popham, J.	3/31/2025

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Criminal	STATE VS. SHELDON LUDT	Case No. 2024CA00124	Appeal from the Alliance Municipal Court , Case No. 2024CRB629	Affirmed	Ineffective assistance of counsel Ludt appealed his conviction and sentence, claiming ineffective assistance of trial counsel. He argued his attorney failed to inform him about improper service of the divorce complaint and did not adequately advise him on how a domestic violence plea could harm his divorce/custody case. The appellate court, citing State v. Haris and State v. Dumans, clarified that a defendant only needs to be informed of the direct consequences of a plea. Since the trial court was not obligated to explain all possible collateral consequences, the appellate court found counsel's performance met the required standard. The Court of Appeals also noted Ludt stated his satisfaction with his lawyer and did not address the court himself. Furthermore, an enhancement form Ludt signed outlined the custody-related consequences.	Popham, J.	3/31/2025
Civil	CAVALRY SPV 1, ASSIGNEE OF BENEFICIAL, OHIO, INC., ASSIGNEDD OF BENEFICIAL MORTGAGE CO. OF OHIO VS. JASON GRIGGS	Case No. 2024 CA 00043	Appeal from the Fairfield County Municipal Court, Case No. 05 CVF 2810	Reversed	Suppression; search warrant Griggs appealed the denial of his motion to strike motions by purported judgment creditor Cavalry SPV 1 and to vacate related court orders, arguing that Cavalry, as the assignee of Beneficial Ohio, Inc., failed to adequately allege and prove the assignment of his specific debt. The Fairfield County Court of Appeals agreed, finding that Cavalry did not meet the legal requirement to demonstrate a valid assignment to collect on the account, leading the appellate court to conclude that the trial court misapplied the law and abused its discretion. As detailed in the accompanying Memorandum-Opinion, the appellate court reversed the municipal court's judgment and assessed costs to Cavalry SPV 1.	King, J.	4/1/2025
Civil	JESSE WAMACK VS. REBECCA WILSON, ET AL. AND TERENCE J. KENNEALLY, ESQ.	Case No. CT2024-0095	Appeal from the Muskingum County Court of Common Pleas, Case No. CC-2024-0028	Reversed and Remanded	Contempt Terrence J. Kenneally appealed the decision to find him in contempt and fine him \$1,000.00 for failing to attend an in-chambers status conference. The Court of Appeals reversed the trial court's decision, finding that Kenneally's failure to appear for the conference constituted indirect contempt, not direct contempt as the trial court had determined, and that the trial court did not afford Kenneally the necessary due process protections required for indirect criminal contempt proceedings.	King, J.	3/31/2025
Domestic Relations	AMBER S. DEVORE VS. ADAM M. DEVORE, ET AL.	Case No. 24-COA-036	Appeal from the Court of Common Pleas of Ashland County , Domestic Relations Division, Case Number 16-DIV-116	Affirmed	Allocation of child support arrearage; supervised visitation Devore appeals the judgment regarding child support arrearages and visitation. He argues the trial court abused its discretion in three ways: (1) allocating pre-May 16, 2023, child support arrearages to the children's mother instead of the grandparents, who later gained custody; (2) not vacating child support arrears despite the mother's failure to explicitly object to waiving them; and (3) ordering supervised visitation despite a guardian ad litem's recommendation for unsupervised visits. The court found that the mother was entitled to the arrearages for the period she cared for the children, properly interpreted her objection, and justified supervised visitation based on Devore's past convictions for domestic violence and abduction, as well as his lack of contact with the children during his six-year incarceration. His supervised visitation remains flexible, contingent on agreement with the grandparents. The appellate court found no abuse of discretion.	King, J.	4/1/2025