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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. TRAVIS SOTO	Case No. 2024 AP 09 0031	Appeal from the Tuscarawas County Court, Case No. 24 CRB 0308-AB	Affirmed	Mootness; domestic violence; resisting arrest; sufficiency; weight Soto challenged his convictions for domestic violence and resisting arrest, arguing that they were not supported by legally sufficient evidence or the weight of the evidence presented at trial. Although the State contended the appeal was moot since Soto had completed his misdemeanor sentence, the appellate court reviewed whether the evidence could convince a rational trier of fact of Soto's guilt beyond a reasonable doubt. Soto did not dispute that he threatened N.W. with imminent harm but claimed she did not meet the legal definition of a "family or household member." However, N.W. testified that she and Soto had been in a romantic relationship and had lived together for two years, and the court found this sufficient to establish cohabitation under the statute. Similarly, the court concluded that there was enough evidence for a jury to find that Soto recklessly or by force resisted his lawful arrest. On review of the weight of the evidence, the court found N.W.'s testimony credible and consistent, with even Soto's own witnesses corroborating key details. Finding no evidence that the jury lost its way or that a manifest miscarriage of justice occurred, the court upheld both convictions.	Popham, J.	5/16/2025
Criminal	STATE VS. LAWRENCE K. COX	Case No. 24-CA-00028	Appeal from the Fairfield County Municipal Court, Case No. 24-CRB-00203	Affirmed in part; Reversed in part, Remanded	Violation of CPO/obstructing official business Lawrence K. Cox appealed his convictions for violating a protection order and obstructing official business. He had calmly refused to vacate his residence as required by a civil protection order, leading to his arrest. The appellate court affirmed his conviction for violating the protection order, finding sufficient evidence that he recklessly disregarded the order. However, his conviction for obstructing official business was reversed, as his calm refusal to leave, without further impeding deputies, was deemed insufficient to establish obstructive intent. The case was remanded for further proceedings.	Popham, J.	5/21/2025
Criminal	STATE VS. SCOTT A. BUCKIUS	Case No. 24CA000021	Appeal from the Guernsey County Court of Common Pleas, Case No. 23CR000184	Affirmed	Possession of a controlled substance; tampering with evidence Scott A. Buckius appealed his convictions for tampering with evidence and possession of a fentanyl-related compound, arguing insufficient evidence and that the convictions were against the manifest weight of the evidence. An officer observed Buckius toss an item into a pine tree, and a baggie containing 6.27 grams of fentanyl was later recovered from that location. The appellate court affirmed both convictions, finding sufficient evidence to prove possession based on the officer's testimony and the location where the baggie was found. The court also concluded that the jury's verdict was not against the manifest weight of the evidence, as the officer's testimony was credible despite the lack of dash camera footage.	Popham, J.	5/20/2025
Criminal	STATE VS. DYLAN SWOGGER	Case No. 24CA000021	Appeal from the Guernsey County Court of Common Pleas, Case No. 23CR000184	Affirmed	Anders; insufficient evidence Swogger was indicted on four counts of inmate harassment for throwing bodily substances at correctional officers; two charges were later dismissed. He was tried and found guilty on the remaining two counts in September 2024 and sentenced to two consecutive 12-month terms. Swogger appealed, but his attorney filed an Anders brief, deeming the appeal frivolous and requested to withdraw. The appellate court notified Swogger he could submit his own brief, but he did not respond. Swogger challenged his convictions for harassment by an inmate, arguing the evidence was insufficient. However, at trial, two correctional officers testified that Swogger, while alone in his cell, threw urine and feces on them in separate incidents. Both officers identified Swogger in court. Although the defense claimed there was no proof of intent, the court found the nature of the acts clearly demonstrated an intent to harass or alarm, and concluded the evidence was sufficient to support the convictions. Swogger's counsel suggested there may have been trial errors visible in the record. However, after an independent review, the appellate court found no reversible errors and agreed with counsel that there were no meritorious grounds for appeal. The court deemed the appeal wholly frivolous under Anders, granted counsel's request to withdraw, and affirmed Swogger's conviction and sentence.	Popham, J.	5/20/2025

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Criminal	STATE VS. DUJUAN AYERS	Case No. 2024 CA 0023	Appeal from the Richland County Court of Common Pleas, Case No. 2023 CR 0663	Affirmed	Sentence imposed for community control violations Ayers appealed the trial court’s decision to revoke his community control sanctions and impose a prison sentence following his guilty plea to violations. Initially indicted in September 2023 for strangulation and assault, Ayers pleaded guilty and was sentenced to 48 months of community control, with a 12-month prison term reserved for violations. After admitting to several violations—including failure to report, contact with the victim, and noncompliance with court orders—he was sentenced in April 2024 to 12 months in prison and 180 days in jail, to run concurrently. On appeal, Ayers argued his plea was invalid due to a lack of written notice, but the court found he had received proper notice and representation, and that due process was satisfied. He also claimed his sentence violated legal standards under State v. Jones and R.C. 2929.18, but the court ruled this argument was barred by res judicata since he failed to challenge the original conditions when imposed. Lastly, he argued ineffective assistance of counsel, but the appellate court presumed the proceedings were regular due to the absence of a transcript. The court overruled all arguments and affirmed the trial court’s decision.	Baldwin, P.J.	5/23/2025
Criminal	STATE VS. JAMES A.R. JONES	Case No. CT2025-0025	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2022-0201	Affirmed	Denial of inmates request for leave to request public records Jones appealed the denial of his request for leave to obtain public records related to his criminal case. Jones had pled guilty to engaging in a pattern of corrupt activity and four counts of robbery in exchange for a jointly recommended 15-year prison sentence. He later filed a motion under R.C. 149.43(B)(8), seeking investigative and procedural documents from the prosecutor and Zanesville Police, arguing his plea was not knowing or voluntary due to lack of discovery. The appellate court found that many of the records had already been provided to Jones in previous mandamus actions, rendering his request moot. For any remaining documents, Jones failed to show they were relevant to a pending case or supported a valid legal claim. The court concluded that the trial court did not abuse its discretion in denying his request.	Popham, J.	5/23/2025
Criminal	STATE VS. HECTOR ARROYO	Case No. 2024 CA 0055	Appeal from the Richland County Court of Common Pleas, Case No. 2021-CR-0491	Reversed	Speedy trial Arroyo argued that the trial court lost subject matter jurisdiction because the State failed to bring him to trial within the 180-day limit set by R.C. 2941.401. The record shows that Arroyo gave proper notice of his desire to be tried on June 1, 2023, with the prosecuting attorney receiving it on June 8, 2023—making November 28, 2023, the deadline for trial. Arroyo was never brought to trial or even given an initial appearance within that time, and the record contains no events that would toll the time limit. As a result, the indictment was deemed a nullity, and the trial court was stripped of subject matter jurisdiction on day 181. The statute mandates dismissal with prejudice, meaning the case cannot be refiled. The appellate court agreed, ruling the trial court lacked jurisdiction to proceed and sustained Arroyo’s first assignment of error, rendering the remaining assignments moot.	King, J.	5/22/2025
Criminal	STATE VS. NICHOLAS PHILLIPS	Case No. 24-COA-026	Appeal from the Ashland County Court of Common Pleas, Case No. 23-CRI-227	Affirmed	Merger of offenses; ineffective assistance of counsel; consecutive sentences; allied offenses of similar import; dissimilar import; R.C. 2941.25 Phillips appealed his convictions and sentence after pleading guilty to Attempted Kidnapping and Domestic Violence, for which he received consecutive sentences totaling 7.5 to 10.5 years in prison. He argued that the trial court erred by failing to merge the two offenses for sentencing, claiming they were part of a single continuous act. The appellate court rejected this claim, finding that the offenses were distinct and resulted in separate, identifiable harm to the victim. Phillips also alleged ineffective assistance of counsel for not requesting merger at sentencing, but the court found no deficiency or prejudice under the Strickland standard. Finally, he challenged the imposition of consecutive sentences, arguing the trial court’s findings were unsupported. The appellate court disagreed, noting his criminal history and community control violations, and affirmed the trial court’s judgment.	Montgomery, J.	5/22/2025
Probate	ETHAN PFLEIDERER VS. TONYA SPECK, ADMINISTRATOR OF THE ESTATE OF RUHL EDWARD ROGERS	Case No. 2024CA0008	Appeal from the Morrow County Court of Common Pleas, Case No. 2023 PC 0005	Affirmed	App.R. 12; App.R. 16 The appellant claimed a violation of due process under the 14th Amendment and the Ohio Constitution, arguing that unauthorized practice of law allegations should have been adjudicated by the Ohio Supreme Court or its UPL Board, not the trial court. However, the appellate court rejected this claim, noting the appellant’s brief failed to comply with Appellate Rule 16 due to a lack of legal citations, record references, or legal analysis. Since the appellant is not a licensed attorney, the trial court had the authority to strike filings made on behalf of others. The appellant did not demonstrate that the trial court abused its discretion, acted unreasonably, or violated any legal standards.	Baldwin, P.J.	5/7/2025

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Juvenile	C24-23, 24, 25, 26.dmg - In re B.M., et al..pdf	Case Nos. 2024 CA 0023 2024 CA 0024 2024 CA 0025 2024 CA 0026	Appeal from the Coshocton County Court of Common Pleas, Juvenile Division, Case Nos. 20233002, 20233003, 20233004, 20233005	Affirmed	Permanent custody; Guardian Ad Litem filed permanent custody motion; Indian Child Welfare The appellant father challenged the decision granting permanent custody of his four children to the county's DJFS. He argued that the court relied on the wrong statutes, lacked sufficient evidence, and failed to follow federal law, including the Indian Child Welfare Act. The appellate court rejected these arguments and affirmed the judgment. The court found that the permanent custody hearing was properly conducted under R.C. 2151.414, even though the motion was filed by the guardian ad litem. Substantial evidence supported the trial court's finding that permanent custody was in the children's best interest, including testimony of parental substance abuse, failure to comply with case plans, threats of violence, and severe neglect. The children expressed fear of their mother and a strong bond with their foster families. Regarding the ICWA claim, the court ruled that the father failed to raise the issue during trial and presented no evidence that the children qualified under the Act. The record, including case plans available to the father, indicated the children were not covered by ICWA. Thus, the trial court's decision to terminate parental rights and grant permanent custody was upheld.	Gormley, J.	5/19/2025
Civil	MUSKINGUM COUNTY CONVETION FACILITIES AUTHORITY VS. BARNES ADVERTISING CORP.	Case No. CT2024-0134	Appeal from the Muskingum County Court of Common Pleas, Case No. CH2024-0096	Affirmed	Convention facilities authority under R.C. Chapter 351; eminent domain petition sufficient under R.C. 163.05; appropriation property approved as necessary for public use The case concerns a dispute over the use of eminent domain by a lesser-known political subdivision, the Community Facilities Authority, to appropriate two billboard easements. After a bench trial in Muskingum County, the judge ruled in favor of the CFA, finding the appropriation served a legitimate public use. The appellate court affirmed this decision, concluding the CFA sufficiently demonstrated that the takings were necessary for a public purpose. Barnes, the opposing party, challenged the CFA's petition, arguing it lacked specific plans or drawings and that the intended construction was too vague. He also claimed the takings were for a private, revenue-generating purpose rather than a public one. However, the court found the petition adequate under R.C. 163.05(C), noting it clearly stated the purpose and included the statutory definition of a "facility." The court also determined the CFA had taken concrete steps to develop the project and was not merely in the early planning phase. While rejecting the CFA's argument that R.C. 351.22 automatically defines such projects as public uses, the court still held that the evidence supported the conclusion that the appropriations served a genuine public purpose.	Gormley, J.	5/22/2025