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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 |
|------------------------------------------------------------------------|--------------|--------------------------------------------------------------------------------------------------|------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|------------------------|
| <a href="#">State v. Howard</a>                                        | 2025 CA 0060 | Appeal from the <b>Richland County</b> Court of Common Pleas, Case No. 2023 CR 0288R             | Affirmed                                                   | Post conviction                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | Popham  | 10/14/2025             |
|                                                                        |              |                                                                                                  |                                                            | Howard, who was serving a five-year prison term to run consecutively to a prior sentence, was declared a violator-at-large after failing to comply with post-release control, resulting in an additional one-year prison term and 1,164 days of post-release control. The appellate court found that Howard's "Motion to Vacate" was properly treated as a post-conviction relief petition under R.C. 2953.21, and it was both untimely and barred by res judicata because his claims of insufficient evidence and ineffective assistance of counsel had already been raised or could have been raised on direct appeal. The court further held that Howard failed to present new evidence outside the record to support his claims and that Ohio law does not require courts to specifically advise defendants that failure to report under post-release control could lead to an Escape charge. Finding no constitutional violation or procedural error, the appellate court affirmed the trial court's decision, overruling both of Howard's assignments of error.                                                                                                                                                                                                                                     |         |                        |
| <a href="#">State v. Sancho</a>                                        | 25CA000004   | Appeal from the <b>Guernsey County</b> Court of Common Pleas, Case No. 24CR000143                | Vacated                                                    | Forfeiture                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Popham  | 10/14/2025             |
|                                                                        |              |                                                                                                  |                                                            | Following a June 2024 incident, the appellant was indicted for tampering with evidence, a third-degree felony, but neither the indictment nor plea proceedings mentioned forfeiture or a cell phone. After pleading guilty and being sentenced to community control, the appellant sought return of his cell phone, which law enforcement refused, claiming it was used to commit the offense. The trial court found the phone to be an instrumentality of the crime and ordered its disposal, despite no forfeiture specification in the indictment or a civil forfeiture action being filed. The appellant appealed, arguing the court lacked statutory authority for the forfeiture. Although the State contended the appeal was moot because the phone had been destroyed, the appellate court held the matter was not moot and that the trial court failed to follow statutory forfeiture procedures under R.C. Chapter 2981. Because the State never provided notice, filed a forfeiture petition, or proved by clear and convincing evidence that the phone was subject to forfeiture, the appellate court vacated the portion of the trial court's judgment ordering forfeiture and destruction of the cell phone.                                                                                |         |                        |
| <a href="#">State v. Barnett</a>                                       | 25-COA-001   | Appeal from the Appeal from the <b>Ashland County</b> Court of Common Pleas, Case No. 24-CRI-239 | Affirmed                                                   | Anders                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Baldwin | 10/16/2025             |
|                                                                        |              |                                                                                                  |                                                            | Appellant's counsel filed an Anders brief, identifying one potential issue—whether the trial court's 18-month prison sentence for retaliation was contrary to law for failing to properly consider the purposes and principles of felony sentencing under R.C. 2929.11 and the seriousness and recidivism factors under R.C. 2929.12. The appellant had pleaded guilty to threatening a municipal court judge after being sentenced for a probation violation. During sentencing, the court heard a detailed victim impact statement from the judge describing serious emotional harm and safety concerns resulting from the threat. The trial court reviewed the presentence investigation, the appellant's criminal history, risk assessment, and substance abuse issues, and determined community control was inappropriate. Concluding that the offense undermined the justice system and posed a public safety risk, the court imposed an 18-month term. On review, the appellate court found counsel had met all Anders requirements and, after independently reviewing the record, determined that the sentence was supported by the record, consistent with statutory sentencing purposes, and not clearly and convincingly contrary to law. The conviction and sentence were therefore affirmed. |         |                        |
| <a href="#">State v. Rush</a>                                          | CT2025-0036  | Appeal from the <b>Muskingum County</b> Court of Common Pleas, Case No. CR2024-0150              | Affirmed                                                   | Suppression                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Baldwin | 10/16/2025             |
|                                                                        |              |                                                                                                  |                                                            | The appellant argued that the trial court erred in denying her motion to suppress evidence obtained through a search warrant, claiming that law enforcement recklessly omitted information from the warrant affidavit and that the court improperly limited her ability to establish a Franks v. Delaware violation. The appellate court disagreed and affirmed the trial court's decision. The court found that the detective's omission of the confidential informant's criminal history was not intentional or made with reckless disregard for the truth, as there was no evidence he knew of the history at the time. Additionally, the appellant failed to provide legal authority, citations, or a proper argument to support her claim that the trial court's evidentiary rulings prevented her from proving a Franks violation. Because the appellant did not meet her burden or comply with appellate rules requiring legal support for her claims, the court overruled her assignment of error and affirmed the trial court's judgment.                                                                                                                                                                                                                                                        |         |                        |
| <a href="#">Dervin &amp; Assocs., Inc. v. Amer Cunningham Co., LPA</a> | 2025CA000004 | Appeal from the <b>Stark County</b> Court of Common Pleas, Case No. 2023CV01548                  | Reversed in part; Affirmed in part; Final Judgment Entered | Legal Malpractice - Statute of Repose - Breach of Settlement Agreement                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Hoffman | 10/16/2025             |
|                                                                        |              |                                                                                                  |                                                            | The appellants argued the trial court erred in denying their motion for summary judgment, asserting that the legal malpractice claim against them was barred by the four-year statute of repose under R.C. 2305.117(B)(1). The appellate court agreed. The appellants contended that the alleged malpractice occurred on June 6, 2019, when they appeared on behalf of both the Agency and Cox in a dissolution case, and since the malpractice suit was not filed until August 29, 2023, it was time-barred. The trial court had denied summary judgment, finding that the alleged conduct was a continuing course of representation that extended the time period. However, the appellate court rejected this reasoning, clarifying that statutes of repose, unlike statutes of limitation, bar claims after a fixed time regardless of discovery or ongoing conduct. Citing both Ohio and Illinois precedent, the court concluded that the statute of repose begins when the alleged act or omission causing harm occurs, and ongoing representation does not toll this period. Therefore, the appellants' summary judgment motion should have been granted because the malpractice claim was filed beyond the four-year statutory limit.                                                              |         |                        |



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