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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. Starcher	25CA0006	Appeal from the Holmes County Court of Common Pleas, Case No. 24CR032	Affirmed	Sentence is proper. Starcher argued that the trial court erred in sentencing him to prison for aggravated possession of drugs, a third-degree felony. Starcher had pled guilty to aggravated possession with a forfeiture specification, receiving stolen property, and one count of counterfeiting, with the remaining charges dismissed. He received an aggregate 24-month prison sentence to run concurrently with an eight-year sentence from another case involving sex offenses with minors. On appeal, Starcher claimed the trial court should have imposed community control instead of prison, asserting that his offense was minor and that his prior convictions were dated. The Fifth District Court of Appeals held that his sentence was within the statutory range, the trial court properly considered the sentencing factors under R.C. 2929.11 and 2929.12, and the presumption for prison on a third-degree drug offense was not overcome. Finding no error or impermissible considerations, the appellate court affirmed the trial court's judgment.	King	10/17/2025
State v. Schaar	2025CA00059	Appeal from the Stark County Common Pleas Court, Case No. 2001CR1536	Affirmed	Untimely and successive motions Schaar was convicted by a jury in 2002 of aggravated murder with a death penalty specification and aggravated robbery, for which he received a life sentence without parole plus ten years consecutively. Over twenty years later, on April 15, 2025, Schaar filed a motion for modification or vacation of sentence, which the Stark County Court denied on April 25, 2025. On appeal, Schaar argued the trial court committed plain error by denying his petition without a hearing. The Fifth District Court of Appeals held that Schaar's postconviction motion was untimely under R.C. 2953.21(A)(2), as it was filed more than two decades after the trial transcript was filed in his direct appeal, and he failed to meet any statutory exceptions under R.C. 2953.23(A)(1). The court further found that because the petition was both untimely and successive, the trial court lacked jurisdiction to consider it or issue findings of fact and conclusions of law. Schaar's remaining assignments of error challenged his original conviction from 2002, which were outside the permissible appeal period.	Montgomery	10/20/2025
In re Estate of Titus	25 CAF 04 0028	Appeal from the Court of Common Pleas of Delaware County , Probate Division, Case No. 2407 0975 PES	Dismissed	Appeal is dismissed because an order admitting a will to probate is not a final and appealable order Titus argued that her late husband had revoked an earlier will and that the probate judge erred in admitting that will to probate. After her husband's death in 2024, Jennifer sought to administer his estate as intestate, but his son from a prior marriage, Eric Titus, produced a 2014 will prepared before the marriage and requested its admission. The probate magistrate recommended admitting the copy of the will, and the judge adopted that decision over Jennifer's objections. On appeal, the court held that the probate court's entry admitting the will was not a final and appealable order, citing established Ohio precedent that such entries do not determine the action or prevent a judgment. The court explained that the proper avenue to challenge the validity of a will admitted to probate is through a will-contest action under R.C. 2107.71. Consequently, the appellate court dismissed Jennifer's appeal for lack of jurisdiction, with costs assessed to her.	Gormley	10/20/2025
State v. Simpson	2025 CA 0010	Appeal from the Court of Common Pleas of Coshocton County , Case No. 24 CR 0039	Affirmed	Trial judge properly declined to instruct the jury on self-defense in an assault case where the alleged victim was a law-enforcement officer who was arresting the defendant; only where an arresting officer uses excessive or unnecessary force may a private citizen use force to resist the arrest Simpson appealed his convictions for assault on a peace officer and obstructing official business, arguing that the trial court erred by refusing to instruct the jury on self-defense. Simpson, who is legally blind, had been recording inside the Coshocton City Hall tax office despite being told to stop. When he refused to leave, a sheriff's deputy attempted to escort him out, leading to a physical altercation captured on video. At trial, the court denied Simpson's request for a self-defense instruction, and the jury convicted him. On appeal, the Fifth District held that the trial court did not abuse its discretion, as there was no evidence the deputy used excessive or unnecessary force before Simpson attacked him. The court reiterated that citizens may not use force to resist an arrest by a known officer unless the officer uses excessive force. Finding no basis for a self-defense claim, the appellate court affirmed Simpson's convictions, with costs assessed to him.	Gormley	10/20/2025
Brunaugh v. Anomatic Corp.	2025 CA 00019	Appeal from the Licking County Court of Common Pleas, Case No. 24CV00676	Affirmed	At-will employment - Civ.R. 12(B)(6) motion to dismiss properly granted - Employee could not establish the elements of breach of contract, promissory estoppel, or violation of public policy claims Brunaugh appealed the decision granting Anomatic Corporation's motion to dismiss his claims under Civ.R. 12(B)(6). The appellate court found that Brunaugh was an at-will employee and that his complaint failed to allege facts establishing any exception to the at-will employment doctrine. Although the employee handbook included a corrective action policy, it also contained a clear disclaimer—signed by Brunaugh—stating that the handbook was not an employment contract and that employment was at-will. The court determined that neither the handbook nor Anomatic's working rules created an implied contract of continued employment or limited the company's right to terminate employees at any time. Furthermore, Brunaugh failed to identify any clear public policy violated by his termination. Because he did not allege sufficient facts to support claims of breach of contract or wrongful discharge in violation of public policy, the appellate court affirmed the trial court's dismissal of his complaint.	Hoffman	10/22/2025



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Lang v. THK Mfg. of Am., Inc.	25 CA 00030	Appeal from the Court of Common Pleas of Licking County , Case No. 24 CV 00386	Reversed and Remanded	Where the party opposing a summary-judgment motion presented an expert's affidavit that identified sufficient relevant facts that, if proven at trial, could prompt a reasonable jury to rule in that party's favor, summary judgment was not appropriate Lang appealed the trial court's grant of summary judgment in favor of Defendant THK Manufacturing of America, arguing that conflicting expert testimony created a genuine issue of material fact regarding the cause of his workplace injury. Lang's expert, a physician, opined that Lang suffered a seizure caused in part by his work environment due to his functional neurological disorder, which was aggravated by the mental demands of his job. THK's expert disagreed, finding no medical evidence linking Lang's fall to his work activities or environment. While the trial court acknowledged that Lang's injury occurred during the course of employment, it concluded it did not arise out of his employment. The appellate court found that the opposing expert opinions, both based on Lang's medical records and the circumstances of his fall, created a factual dispute that should be resolved at trial. Because Lang presented sufficient evidence to allow a reasonable jury to find in his favor, the appellate court reversed the summary judgment and remanded the case for further proceedings. Criminal - suppression - warrantless search - exigency exception - consent exception - validity of search warrant - speedy trial - evid. rule 403(A)	Gormley	10/21/2025
State v. Mack	22CA83	Richland County Court of Common Pleas	Affirmed	Appellant, John H. Mack, Jr., appeals the judgment of the Richland County Court of Common Pleas convicting him of 17 misdemeanor and felony counts, which included charges of aggravated murder, murder, and kidnapping. On appeal, appellant contends that 1) the trial court erred when it held that the exigency exception to the warrant requirement permitted the first warrantless search of his home and backyard curtilage; 2) the trial court erred when it held that the consent exception to the warrant requirement permitted his niece to lawfully consent to the second, third, and fourth warrantless searches of his home; 3) the trial court erred when it denied his motion to suppress unconstitutional searches via invalid search warrants; 4) the trial court erred and violated his right to a speedy trial when it denied his motion to dismiss; and 5) the trial court erred when it permitted a prosecution witness to read the table of contents from a book found in his truck upon his arrest. However, because we find no merit to the arguments raised on appeal, they are all overruled and the judgment of the trial court is affirmed.	Smith	10/21/2025
State v. McAllister	2024CA00193	Appeal from the Stark County Court of Common Pleas, Case No. 2024-CR-0741	Affirmed	Sufficiency of the evidence; Consecutive sentences McAllister appealed his convictions and sentence for attempted murder with a firearm specification, discharging a firearm on or near prohibited premises with a firearm specification, felonious assault with a firearm specification, and having weapons while under disability. He argued that his convictions were not supported by sufficient evidence and were against the manifest weight of the evidence, primarily challenging the State's identification evidence. The appellate court disagreed, noting that although the victim initially denied knowing the shooter, he later identified McAllister in court and explained that he had previously been afraid to do so. The court found the jury was in the best position to assess credibility and that sufficient evidence supported the convictions. McAllister also challenged the trial court's imposition of consecutive sentences, claiming the findings were unsupported and not properly incorporated into the sentencing entry. The appellate court found the record supported consecutive sentences but agreed that the sentencing entry failed to include the required findings. The case was affirmed in part, reversed in part, and remanded for the limited purpose of issuing a nunc pro tunc entry to correct the clerical omission.	Baldwin	10/22/2025
In re O.S.	2025CA00045	Appeal from the Stark County Court of Common Pleas, Family Court Division, Case No. 2024JCV00574	Affirmed	Permanent Custody Father argued that the trial court erred in granting permanent custody of his child, O.S., to the Stark County Job and Family Services (SCJFS), claiming that it was in O.S.'s best interests to extend temporary custody so he could work a case plan after his release from prison. The appellate court disagreed, applying the sufficiency and manifest-weight-of-the-evidence standards outlined in <i>In re Z.C.</i>, 2023-Ohio-4703. The court explained that clear and convincing evidence showed Father was incarcerated, had abandoned the child, and lacked any meaningful bond with O.S. Testimony established that Father would be unable to care for O.S. within a reasonable time, if ever, and that delaying permanency to allow him to complete a case plan would exceed statutory limits. SCJFS also faced barriers in securing necessary medical care for O.S. while holding only temporary custody. Finding sufficient, competent, and credible evidence that permanent custody served O.S.'s best interests, the appellate court affirmed the trial court's decision to terminate Father's parental rights and award permanent custody to SCJFS.	King	10/23/2025
State v. Goe	2024CA00209	Appeal from the Stark County Court of Common Pleas, Case No. 2024CR1510	Affirmed	Murder - Manifest Weight of the Evidence - Sufficiency of the Evidence - Expert Testimony Goe appealed his convictions in the Stark County Court of Common Pleas for two counts of murder with repeat violent offender specifications, felonious assault, tampering with evidence, and gross abuse of a corpse, for which he received a sentence of twenty-nine years to life. He argued the State failed to present sufficient evidence identifying him as the murderer, claiming investigative shortcomings and inconsistencies in the timeline. The appellate court rejected these arguments, finding the State presented substantial circumstantial evidence—cell phone data, surveillance footage showing Goe driving the victim's vehicle, DNA and blood evidence linking him to the crime scene, and his flight from police—that supported the verdict. The court held that the discrepancies in the trash collection timeline did not exonerate him and that the verdict was not against the manifest weight of the evidence. Additionally, the court found no abuse of discretion or plain error in allowing testimony from a police sergeant about cell phone data, as it constituted admissible lay testimony and any alleged error was invited by the defense. The court affirmed Goe's convictions and sentence.	Hoffman	10/23/2025



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In re B.W.	25CA007	Appeal from the Court of Common Pleas of Holmes County , Juvenile Division, Case No. 23N029	Affirmed	Juvenile court permissibly chose not to delay a hearing in a dependent-child case and properly allowed the attorney for the child's parent to withdraw from the representation before the hearing where the parent did not appear at the hearing and had failed to communicate with the attorney for three months; grant of permanent custody to children's services agency was proper where parent's lack of contact with the child could be viewed as abandonment Barone appealed the decision granting permanent custody of his son, B.W., to Holmes County Children's Services. He argued that the court erred by denying his request for a continuance, by allowing his attorney to withdraw, and by issuing a premature permanent custody order. The appellate court found no error and affirmed. The court held that Barone's continuance request was properly denied because his absence from the adjudicatory hearing was voluntary—he failed to maintain contact with counsel or the court despite repeated attempts to reach him. His attorney's withdrawal was likewise proper, as Barone's total lack of communication and participation constituted a voluntary waiver of counsel. Regarding permanent custody, the court found Barone's failure to seek timely modification of a preexisting no-contact order prevented his inclusion in case-plan services and any opportunity for reunification. Because Barone had abandoned his child, the Agency was exempt from providing reunification efforts under R.C. 2151.419(A)(2)(d). Finding the trial court's decision supported by the record and not against the manifest weight of the evidence, the appellate court affirmed the award of permanent custody to the Agency.	Gormley	10/23/2025
State v. Chatman	25 CAA 04 0025	Appeal from the Delaware County Court of Common Pleas, Case No. 24 CRI 08 0464	Affirmed	Sentencing - Presumption of Prison Sentence Not Overcome - Standard of Review Appellant challenged her prison sentence, arguing the record did not support the trial court's finding that the presumption of prison was not overcome under R.C. 2929.13(D)(2). The appellate court disagreed, explaining that when a trial court imposes a prison term consistent with the statutory presumption, it is not required to make specific findings—only when it overrides the presumption to impose community control. The court emphasized that its review under R.C. 2953.08(G)(2) is limited to determining whether the sentence is clearly and convincingly contrary to law, not whether it agrees with the trial court's weighing of the evidence. Citing <i>State v. Jones</i> and <i>State v. Pettorini</i>, the appellate court found the trial court properly considered the purposes and principles of sentencing under R.C. 2929.11 and the seriousness and recidivism factors under R.C. 2929.12, imposed post-release control, and sentenced within the statutory range. Because the trial court found the presumption of prison applied due to Appellant's prior record and the value of the stolen merchandise, the appellate court concluded the sentence was lawful and affirmed the judgment of the Delaware County Common Pleas Court.	Hoffman	10/23/2025
State v. Fuller	25 CAA 01 0006	Appeal from the Delaware County Court of Common Pleas, Case No. 24 CRI 04 0242	Affirmed	Child Endangering - Sentencing - Void for Vagueness Two of the appellant's children were medically diagnosed as torture victims, and several were diagnosed with post-traumatic stress disorder; one child attempted suicide, and others reported suicidal thoughts. The appellant was indicted on eight counts of endangering children and one count of intimidation but pled guilty to seven counts of endangering children as part of a plea deal, with the remaining charges dismissed. The trial court sentenced him to thirty months in prison for each count, to be served consecutively, for a total of 210 months. On appeal, the appellant argued that his sentence was excessive, inconsistent with similar cases, and failed to properly consider his military service. The appellate court found that the sentences were within the statutory range, the trial court had considered his military history, and the record supported the findings for consecutive sentences, noting the severe and prolonged abuse, the psychological and physical harm to the children, and his violation of a no-contact order. The court also rejected his constitutional challenges to R.C. 2929.11(B) and R.C. 2929.14(C)(4), affirming that the statutes were not unconstitutionally vague and that his actions demonstrated a danger to the public as well as to his family.	Hoffman	10/23/2025