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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. Yob	2024CA00194	Appeal from the Stark County Court of Common Pleas, Case No. 2024-CR-1092	Affirmed	Manifest weight; Sufficiency of the evidence; In loco parentis Yob appealed his convictions for two counts of sexual battery following a jury trial in which he was found guilty under R.C. 2907.03(A)(2)(B) and R.C. 2907.03(A)(5)(B). The trial court merged the counts for sentencing, imposed a 60-month prison term, and classified Yob as a Tier III sex offender. On appeal, Yob argued his convictions were against the manifest weight and sufficiency of the evidence. Regarding the first count, he claimed the jury erred in finding that he knew the victim, H.B., was substantially impaired; however, the appellate court found H.B.'s testimony credible and supported by corroborating evidence, concluding the jury did not lose its way. As to the second count, Yob argued the evidence did not support that he was in loco parentis to H.B., but testimony showed he had lived with her mother, helped support the household, and acted as a trusted adult figure in H.B.'s life. Viewing the evidence in favor of the State, the court found sufficient proof of the in loco parentis relationship and affirmed the jury's verdict, overruling both assignments of error.	Baldwin	10/27/2025
State v. Carter	2025 CA 00008	Appeal from the Licking County Court of Common Pleas, Case No. 2024 CR 00615	Affirmed	Anders - Reliance on Competency Evaluation from Another Court Carter appealed his conviction and two-year community control sentence from the Licking County Common Pleas Court after pleading no contest to breaking and entering a Subway restaurant in Newark, Ohio, where he threw a bird bath through a window and stole food. Police identified Carter from surveillance footage. On appeal, he argued that the trial court abused its discretion by relying on competency reports from the Licking County Municipal Court instead of ordering its own evaluation. The appellate court found no merit in his claim, agreed with counsel that there were no arguable grounds for appeal, granted counsel's request to withdraw, deemed the appeal frivolous under Anders, and affirmed the lower court's judgment, assessing costs to Carter.	Hoffman	10/27/2025
In re Guardianship of Cottrell	25CA0000002	Appeal from the Knox County Court of Common Pleas, Probate Division, Case No. 2025 2001	Affirmed	Guardianship Restriction Violations The trial court issued an order imposing several restrictions on Cottrell's visits with Delmor, finding them necessary for Delmor's best interest. Cottrell was prohibited from bringing unapproved items, discussing the guardianship case or other disputes, directing Delmor in educational activities without approval, filing complaints about his care outside approved channels, or having Delmor sign documents. Violations could result in contempt charges and penalties. Although Cottrell argued that the decision lacked expert or unbiased testimony and that Rule of Superintendence 66.09 required fostering positive relationships, the court found credible evidence supporting the restrictions. Testimony from Epley and Ferguson indicated that the Cottrell's actions—such as giving Delmor documents and assigning tasks—caused confusion, agitation, and distress. The court concluded it did not abuse its discretion, as the restrictions were in Delmor's best interest.	Popham	10/27/2025
State v. Patterson	2024CA00156	Appeal from the Stark County Court of Common Pleas, Case No. 2023CR1349	Affirmed	Restitution - Evidence of Amount - Governmental Entity's Ability to Receive Restitution - Ineffective Assistance of Counsel Patterson appealed his conviction and sentence after pleading guilty to escape, vandalism, inducing panic, and aggravated riot related to his participation in a 2022 riot at the Indian River Juvenile Correctional Facility. Then 16 years old, Patterson was sentenced to four to six years in prison and ordered to pay up to \$200,000 in restitution jointly with his co-defendants. On appeal, he argued that the restitution order lacked sufficient evidence of economic loss, that his counsel was ineffective for failing to contest it, and that restitution to a state facility was improper because it was not a "victim" under Marsy's Law. The appellate court rejected all claims, finding no plain error in the restitution order since the amount was subject to later adjustment based on insurance proceeds. It also held that Patterson failed to show ineffective assistance of counsel or that the trial court erred in treating the state facility as a victim eligible for restitution.	Hoffman	10/28/2025
Austin v. OhioHealth Mansfield Hosp.	2025 CA 0027	Appeal from the Richland County Mansfield Municipal Court, Case No. 2024-CVH-00942	Affirmed	Summary Judgment - Negligence, Conversion res ipsa loquitur Austin appealed the judgment granting summary judgment in favor of OhioHealth Mansfield Hospital after her iPhone went missing during a hospital stay. Austin claimed negligence, sought a res ipsa loquitur instruction, and alleged conversion, arguing that factual disputes precluded summary judgment. The appellate court upheld the trial court's ruling, finding that Austin failed to present sufficient evidence of negligence, as OhioHealth did not have exclusive control over her phone and other reasonable causes for its loss existed. The court also determined that res ipsa loquitur did not apply and that Austin's complaint lacked facts showing OhioHealth or its staff intentionally withheld the phone, thus failing to state a valid conversion claim.	Hoffman	10/28/2025
State v. Virgili	2024 CA 0080	Appeal from the Richland County Court of Common Pleas, Case No. 2023-CR-455	Affirmed	Anders Virgili appealed his sentence after pleading guilty to attempted murder, kidnapping, intimidation of a witness, and tampering with evidence. The trial court ordered his sentences to run consecutively, resulting in an aggregate prison term of twenty-six to thirty-one years. His counsel filed an Anders brief, suggesting a potential issue regarding the trial court's failure to merge offenses and its decision to impose consecutive sentences. The appellate court found that the trial court properly considered the relevant statutory factors, including Virgili's extensive criminal history and the brutal nature of his crimes, and lawfully imposed post-release control. Concluding that no meritorious grounds for appeal existed, the court deemed the appeal frivolous under Anders, granted counsel's request to withdraw, and affirmed the Richland County Court of Common Pleas judgment.	Baldwin	10/28/2025



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State v. Bicker	25-COA-002	Appeal from the Ashland County Court of Common Pleas, Case No. 24-CRI-069	Affirmed	Suppression; Search Warrant; Probable Cause Bicker pleaded no contest to all charges in the indictment and was convicted, receiving a six-year prison sentence. On appeal, he argued that the evidence against him should have been suppressed because the search warrant for his person and home lacked probable cause, and that the good faith exception could not remedy this deficiency. The case involved child pornography downloaded to a device associated with a phone number on Bicker's father Bonnell's account, though the phone was in Bicker's possession. The court found that while the affidavit supporting the search warrant was poorly drafted and contained inaccuracies, the officers had probable cause linking the downloads, Bicker's phone, and his residence. Importantly, the court determined that the officers' mistakes were not deliberate or reckless but rather negligent, and that they relied on the warrant in good faith. Therefore, the good faith exception to the exclusionary rule applied, and the trial court's decision to deny suppression of the evidence was upheld.	King	10/28/2025
In re S.I.	2025CA0011	Appeal from the Coshocton County Common Pleas Court, Juvenile Division, Case No. 20233017	Remanded	Permanent custody; Case plan progress; R.C. 2151.414; Reasonable efforts to complete case plan Father-Appellant appealed the judgment that terminated his parental rights and granted permanent custody of his child to the Coshocton County Department of Job and Family Services. The trial court found that the parents were unable to meet the child's basic needs and that the child would be at risk of harm if returned to their care, placing the child instead with foster parents who had previously adopted his two siblings. On appeal, Father argued that the trial court erred by granting permanent custody without making the required finding under R.C. 2151.414(B)(1) and by determining that he failed to remedy the conditions leading to the child's removal. The appellate court agreed that the trial court failed to make the necessary statutory finding, sustained the first assignment of error, vacated the judgment, and remanded the case for further proceedings, declining to address the second claim.	Montgomery	10/29/2025
Horan v. Sugar Valley Meats, L.L.C.	2025 AP 03 0007	Appeal from the Court of Common Pleas of Tuscarawas County , Case No. 2023 CT 11 0807	Affirmed	The no-duty winter rule, under which the owner of property generally owes no duty to an invitee who slips and falls on a natural accumulation of snow or ice, barred a negligence claim filed by the plaintiff who slipped on what he believed was ice in a business owner's barn that was open to the elements Jason and Gina Horan appealed the trial court's decision granting summary judgment to Sugar Valley Meats, LLC ("SVM") after Jason slipped and fell in SVM's barn, suffering multiple pelvic and hip fractures. The trial court determined that the "no-duty winter rule" barred the Horans' negligence and loss-of-consortium claims, as SVM had no legal duty to remove natural accumulations of ice or snow. Evidence showed that while snow rarely entered the barn, ice occasionally formed, and SVM typically applied ice melt when butchering operations occurred. However, on the day of the fall, December 26, no employees were present, and the barn had last been cleaned four days earlier. Given Jason Horan's familiarity with barns and winter conditions, the court found no genuine issue of material fact regarding SVM's duty. Because the negligence claim failed under the no-duty winter rule, Gina Horan's derivative loss-of-consortium claim also failed.	Gormley	10/29/2025
State v. Perry	25-COA-003	Appeal from the Ashland County Court of Common Pleas, Case No. 23-CRI-074	Affirmed	Motion to suppress; Unconstitutional detention On February 8, 2023, Ohio State Highway Patrol Trooper Guinther stopped Perry for suspected illegal window tint. During the stop, Trooper Guinther observed what appeared to be a rolled marijuana cigarette in Perry's center console, though no odor of marijuana or other drug paraphernalia was detected. When questioned, Perry initially claimed it was a hand-rolled cigarette but later admitted it was marijuana and that he did not have a medical marijuana card. Trooper Guinther then detained Perry, read him his Miranda rights, and searched his vehicle, discovering multiple baggies containing suspected drugs and a loaded firearm. Perry was indicted on six felony counts for drug and firearm violations. He filed a motion to suppress the evidence, arguing unconstitutional detention, lack of probable cause, improper questioning without Miranda warnings, and lack of consent for the vehicle search. The trial court denied the motion, finding that Trooper Guinther had reasonable suspicion and probable cause to search under the automobile exception. The Court finds that the trial court's findings are supported by competent, credible evidence.	Montgomery	10/29/2025
In re O.S.	2025CA00045	Appeal from the Stark Count Court of Common Pleas, Family Court Division, Case No. 2024JCV00574	Affirmed	Permanent Custody The Court terminated the parental rights of the Appellant-Father and granted permanent custody of the minor child, O.S., to the Stark County Department of Job and Family Services (SCJFS). The court found that Father, who was incarcerated with an earliest release date of September 22, 2025, had no case plan, had never visited O.S., and had a history of substance abuse. SCJFS also noted that caring for O.S. required specialized training extending beyond the case's timeline. Although Father did not dispute the finding of abandonment, he argued that an extension of temporary custody would have been more appropriate. The appellate court, however, determined that sufficient, competent, and credible evidence supported the trial court's finding that granting permanent custody to SCJFS was in the child's best interests and therefore affirmed the judgment.	King	10/30/2025