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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. Palmer	24-COA-039	Appeal from the Court of Common Pleas of Ashland County , Case No. 22-CRI-217	Affirmed	Warrantless seizure of drugs was permissible under the plain-feel exception to the warrant requirement where the police officer who conducted a pat-down search for weapons testified at a suppression hearing that the contraband's identity was immediately apparent when touched; speedy-trial claim not raised in the trial court is forfeited and cannot be raised for the first time in a direct appeal Palmer argued that the trial court erred by denying his motion to suppress, that his right to a speedy trial was violated, and that his attorney was ineffective for failing to move for dismissal on speedy-trial grounds. The court rejected all three claims and affirmed the conviction. Police were called to a bank after a report of suspicious activity and, during a consensual pat-down, an officer felt a large roll of cash and tied-off baggies in Palmer's pocket. The officer immediately recognized the items as contraband based on his training and experience, leading to Palmer's arrest and felony drug charges. The appellate court found the seizure valid under the "plain-feel" doctrine and upheld the trial court's denial of the suppression motion. Palmer's speedy-trial argument was forfeited because it was not raised below, and his ineffective-assistance claim must be pursued, if at all, in a post-conviction relief petition rather than on direct appeal.	Gormley	10/6/2025
State v. Newton	CT2025-0029	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2024-0718	Affirmed	Sufficiency of the evidence and manifest weight Newton appealed his convictions for Aggravated Burglary, Kidnapping with a sexual motivation specification, and Attempted Rape, arguing that the verdict was unsupported by sufficient evidence and against the manifest weight of the evidence. He was sentenced to consecutive prison terms totaling 15 to 19 years and classified as a Tier III sex offender. At trial, both victims, L.E. and T.E., testified that Newton was not invited into the apartment, and evidence of a torn window screen suggested forced entry. L.E. testified that she awoke to find Newton standing over her, her wrists and ankles zip tied, and that he attempted to climb on top of her while telling her to stay quiet. The appellate court found that, when viewed in the light most favorable to the prosecution, the evidence was sufficient for a rational jury to convict and that no miscarriage of justice occurred. Therefore, Newton's assignments of error were overruled, and the trial court's judgment was affirmed.	Baldwin	10/6/2025
State v. Kuehl	2024 CA 0078	Appeal from the Court of Common Pleas of Richland County , Case No. 2024 CR 0531 N	Appeal Dismissed	Dismissal of an appeal is appropriate where the appellant's brief does not address any alleged errors in the trial court's judgment Kuehl appealed his theft conviction in Richland County, for which he received a six-month prison sentence to run concurrently with sentences for two robbery convictions. However, his appellate brief failed to identify any alleged error related to the theft conviction. Although his notice of appeal and docketing statement referenced the theft case and attached the corresponding sentencing entry, Kuehl's brief instead discussed only the robbery cases. Because appellate review is limited to the judgment identified in the notice of appeal and to assignments of error properly raised in the brief, the appellate court found that Kuehl had not presented any valid claim for review. Accordingly, the court dismissed his appeal and ordered him to pay costs.	Gormley	10/6/2025
State v. Kuehl	2024 CA 0079	Appeal from the Court of Common Pleas of Richland County , Case No. 2024 CR 0532 N	Affirmed	Consecutive prison terms are appropriate where the record supports the trial court's findings that two robberies were committed as part of a course of conduct and that the psychological harm from those crimes was so great or unusual that no single term would adequately reflect the seriousness of the crimes Kuehl appealed the consecutive prison sentences imposed for his two robbery convictions in Richland County, arguing that the trial court's decision was contrary to law. Kuehl received two indefinite four-year minimum terms, to be served consecutively, for a total minimum of eight years and a maximum of ten years, with those sentences running concurrently with a six-month theft sentence. The appellate court found that the trial judge properly made the findings required under R.C. 2929.14(C)(4), determining that consecutive sentences were necessary to protect the public, not disproportionate to Kuehl's conduct, and justified because his offenses were part of a single course of conduct. The robberies occurred two days apart at gas stations, where Kuehl brandished a box cutter and demanded money and cigarettes, causing significant psychological harm to the victims. The court held that the record supported the trial court's findings and affirmed Kuehl's consecutive sentences.	Gormley	10/6/2025
State ex rel. Yost v. Cent. Tobacco & Stuff, Inc.	24 CAE 11 0103	Appeal from the Delaware County Court of Common Pleas, Case No. 24 CVH 07 0664	Affirmed	Does sale of e-cigarettes not authorized by Federal Food, Drug, and Cosmetic Act ("FDCA") violate Ohio's Consumer Sales Practices Act ("CSPA"). The State of Ohio, through Attorney General Dave Yost, filed a complaint against Central Tobacco and Stuff Inc. alleging violations of the Ohio Consumer Sales Practices Act (CSPA) for selling electronic cigarettes that had not been authorized for sale by the FDA. The State claimed Central Tobacco acted deceptively by not informing consumers of the lack of FDA authorization and engaged in unconscionable practices by taking advantage of consumers' inability to recognize that the products were not legally authorized, especially since the packaging stated "sale only allowed in the United States." The court, however, found that the alleged acts were governed by federal law and therefore exempt from the CSPA's protections. Concluding that the complaint failed to state a claim upon which relief could be granted, the appellate court affirmed the trial court's dismissal of the State's case.	Montgomery	10/6/2025



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State v. Montgomery	2024 CA 0069	Appeal from the Richland County Shelby Municipal Court, Case No. CRB 2200206	Reversed and Remanded	Criminal defendant succeeded in overturning his conviction in an earlier appeal and then received a harsher sentence in the same case on remand; his latest conviction is now vacated because the trial judge failed to make the necessary findings that might justify the harsher sentence Montgomery appealed his 30-day jail sentence after the trial court increased it from his original three-day term following a successful appeal. Montgomery had pled no contest to aggravated menacing, and this Court had previously vacated his conviction for lack of an explanation-of-circumstances hearing. Upon remand, the same judge conducted the hearing, heard new details about Montgomery's conduct involving a firearm, and reimposed a harsher sentence without explaining the reason for the increase. Montgomery argued that the longer sentence was vindictive, punishing him for his successful appeal. The appellate court agreed, finding that while the judge learned additional facts about the offense, she failed to make affirmative findings on the record to justify the harsher sentence. Because the presumption of vindictiveness was not rebutted, the appellate court again reversed and remanded for a new sentencing hearing, waiving court costs.	Gormley	10/6/2025
In re L.L.-B.	2025CA0008 & 2025CA0009	Appeal from the Coshocton County Court of Common Pleas, Juvenile Division, Case Nos. 20233010 & 20223012	Affirmed	Permanent Custody - Best Interest finding not against manifest weight of the evidence Mother appealed the trial court's decision granting permanent custody of her two minor children to the county child services agency, arguing that the finding was not supported by clear and convincing evidence and was against the manifest weight of the evidence. The appellate court explained that it does not reweigh evidence but determines whether the trial court's decision is supported by competent, credible evidence. Under R.C. 2151.414, the court must find both that one of several statutory conditions exists and that permanent custody is in the child's best interest. Mother did not dispute that the children had been in agency custody for over 12 months but claimed the agency failed to prove that permanent custody served their best interests. The appellate court found clear and convincing evidence supporting the trial court's determination: the children were thriving in foster care, bonded with each other and their foster parents, and showed little connection to Mother, who remained unable to provide a stable home. No suitable relatives were available for placement. The court concluded that granting permanent custody was in the children's best interests and affirmed the trial court's decision, overruling Mother's sole assignment of error.	Hoffman	10/7/2025
State v. Taylor	25 CAC 01 0001	Appeal from the Delaware County Municipal Court, Case No. 24 TRC 07640	Affirmed	Weight of evidence in Operating a Vehicle Impaired ("OVI"); Ineffective assistance of counsel Taylor was charged with OVI, Driving Without a Valid License, and Fictitious Plates. Taylor initially pleaded not guilty but, during his jury trial on December 10, 2024, changed his pleas to guilty on the latter two charges. The jury found him guilty of OVI, and the court sentenced him to the mandatory minimums for a first offense. On appeal, Taylor argued that his OVI conviction was not supported by sufficient evidence and was against the manifest weight of the evidence, and that his trial counsel was ineffective for failing to file a motion to suppress the traffic stop. The appellate court found that Officer Byerly's testimony—describing Taylor's glossy eyes, rapid speech, unsteady performance on sobriety tests, and other signs of impairment—provided sufficient evidence to support the conviction. The court further held that the officer had reasonable suspicion to stop Taylor due to fictitious plates, so there was no valid basis for a suppression motion. Accordingly, the appellate court overruled both assignments of error and affirmed the trial court's judgment.	Montgomery	10/7/2025
State v. Slagle	2024 CA 00096	Appeal from the Licking County Court of Common Pleas, Case No. 2024 CR 00392	Affirmed	Anders Appellant's counsel filed an Anders brief suggesting a potential assignment of error that the trial court improperly referred to the possible imposition of three consecutive one-year prison terms—one for each of the three counts to which the appellant pleaded guilty—if she violated community control. Counsel argued the record might not support consecutive sentences. The appellate court disagreed, explaining that under R.C. 2929.14(C)(4), consecutive sentences may be imposed if the court finds they are necessary to protect the public, not disproportionate to the offender's conduct, and supported by the offender's criminal history. The court found that the trial judge properly made and incorporated these findings, noting the appellant's extensive record and repeated probation violations. Because the record supported the trial court's decision and findings, the appellate court determined that no meritorious issues existed for appeal, granted counsel's motion to withdraw, and affirmed the judgment of the Licking County Court of Common Pleas.	Baldwin	10/8/2025
El Bey v. Mitchell	2025 CA 00041	Appeal from the Court of Common Pleas of Licking County , Case No. 2025 CV 00186	Affirmed	After the trial court issued a valid and final judgment on the plaintiff's first lawsuit, that court properly found that the doctrine of claim preclusion barred the plaintiff's second lawsuit raising similar claims against the same defendant El Bey appealed the Licking County Court of Common Pleas' decision granting summary judgment to Appellee Theresa Mitchell. In 2010, El Bey transferred ownership of property at 314 10th Street in Newark, Ohio, to Mitchell, but later filed a 2024 complaint to quiet title, which was dismissed after summary judgment was granted in Mitchell's favor. After that judgment became final, El Bey filed a nearly identical 2025 complaint asserting the same and related claims. The trial court granted Mitchell's motion for summary judgment, finding the second lawsuit barred by claim preclusion since it involved the same parties, arose from the same property transfer, and raised claims that were or could have been litigated in the prior action. On appeal, the court agreed, holding that all elements of claim preclusion were met and that the first judgment operated as a final adjudication on the merits. Accordingly, the appellate court affirmed the trial court's decision and assessed costs to El Bey.	Gormley	10/8/2025



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State v. Mitchell	2024CA00057	Appeal from the Stark County Court of Common Pleas, Case No.2023CR2192	Affirmed	Discharge of a Firearm on or Near Prohibited Premises - Felonious Assault - Murder - with Firearm Specification x's 3 The judgment of the Court of Common Pleas of Stark County, Ohio is affirmed as to Assignments of Error One, Two, and Four. The Third Assignment of Error is sustained. The matter is remanded for resentencing.	Smith	10/8/2025
Mock v. Schupp	2025 AP 03 0008	Appeal from the Tuscarawas County Court of Common Pleas, Case No. 2023 CV 02 0134	Affirmed	Adverse possession The appellant raised three assignments of error, all arguing that the trial court's verdict was against the manifest weight of the evidence. The Fifth District Court of Appeals affirmed the trial court's decision, finding that competent and credible evidence supported its judgment. In the first assignment, the appellant failed to cite legal authority or record evidence to support her claim that the parties agreed to her ownership of a portion of the disputed property, leading the court to disregard the argument under App.R. 12(A). In the second, the court held that the appellant did not meet the stringent requirements to establish adverse possession, as she presented no clear and convincing evidence of open, notorious, exclusive, and adverse use of the property for 21 years. In the third, the appellant sought a permanent injunction and attorney fees, alleging harassment by the appellee, but the court found the evidence insufficient to show irreparable harm or entitlement to relief. Concluding that all findings were supported by the record, the appellate court overruled all three assignments of error and affirmed the judgment of the Tuscarawas County Court of Common Pleas, with costs assessed to the appellant.	Baldwin	10/8/2025
State v. Blosser	CT2025-0014	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2023-0150	Affirmed	Abuse of discretion Blosser, Jr. was indicted in the Muskingum County Court of Common Pleas on multiple vehicular homicide, assault, and OVI charges stemming from a fatal crash. He ultimately pled guilty to amended counts of aggravated vehicular homicide and aggravated vehicular assault, with the remaining charges dismissed. The trial court sentenced him to consecutive terms totaling a mandatory minimum of ten years and an indefinite term of thirteen years. More than a year later, Blosser filed motions to withdraw his guilty plea and to dismiss his case, both of which were denied. On appeal, he argued ineffective assistance of counsel and a due process violation based on the court's refusal to consider his BMV driving record, which he claimed disproved the basis for an enhanced sentence. The Fifth District Court of Appeals found the appeal untimely, held that the BMV document was unauthenticated, and determined that Blosser's claims amounted to an improper collateral attack on his conviction. Concluding the trial court did not abuse its discretion, the appellate court affirmed the denial of his motion to dismiss and assessed costs to Blosser.	Montgomery	10/8/2025