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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. Raymundo	2024 AP 11 0036	Appeal from the Tuscarawas County Court of Common Pleas, General Trial Division, Case No. 2023 CR 08 0247	Affirmed	Manifest weight of the evidence; Sufficiency of the evidence; Jury verdict; Rape; Gross sexual imposition Appellant contended that the verdict was unsupported by evidence because no physical evidence, such as DNA or injuries, linked him to the crimes and the case relied primarily on the child's statements, which she allegedly failed to disclose for years. The court rejected these arguments, finding ample evidence to support the convictions. Multiple witnesses corroborated the victim's account, and forensic examiner Nichole John testified that the child gave specific, credible details about the abuse, including differences in sensations from various acts and physical aftermath. The jury viewed the child's forensic interview and was entitled to find her statements credible. Concluding that the jury neither lost its way nor created a miscarriage of justice, the court held the verdict was supported by sufficient evidence and not against the manifest weight, and it overruled Appellant's sole assignment of error.	Montgomery	9/12/2025
Weihe v. JP Morgan Chase Natl. Assn.	25CA016	Appeal from the Richland County Court of Common Pleas, Case No. 23 CV 0257	Affirmed	Summary judgment on joint payable on death ("POD") bank accounts Appellants argued the trial court erred in denying their motion to strike portions of the affidavits of Walker-Cox and Siringier, claiming the affidavits conflicted with prior deposition testimony and amounted to sham affidavits. The trial court, however, found the affidavits merely supplemented prior testimony and denied the motion, a decision the appellate court upheld as not an abuse of discretion. Appellants also challenged the trial court's grant of summary judgment to appellees on claims for conversion, interference with contract, breach of contract, and requests for declaratory judgment and reformation/rescission. The court determined that Bunsey knowingly and intentionally made Walker-Cox a joint owner with rights of survivorship, as evidenced by her communications with the bank, her electronic signatures, and the Deposit Account Agreement language she accepted. Bunsey's actions, including signing two signature cards and later adding appellants as payable-on-death beneficiaries, demonstrated her clear intent to create joint accounts with survivorship rights. Finding no genuine issues of material fact and no basis for appellants' claims, the appellate court affirmed the trial court's grant of summary judgment.	King	9/12/2025
State v. Foreman	2025 CA 00020	Appeal from the Licking County Court of Common Pleas, Case No. 24 CR 718	Reversed and Remanded	Traffic stop; Motion to suppress At the suppression hearing, Deputy Harmon testified that he stopped a vehicle after learning its registered owner had a suspended license, only later discovering the owner was not driving. None of the occupants had valid licenses, so he arranged for a tow and, with their consent, searched the vehicle, finding drugs and a syringe. Relying on the Ohio Supreme Court's decision in <i>State v. Dunlap</i> (2024-Ohio-4821), which upheld stops under nearly identical circumstances, the appellate court found Harmon had reasonable suspicion to initiate the stop and that his subsequent actions were lawful. Because the stop was valid and the search was conducted with consent, the court held the trial court erred in granting the motion to suppress. Accordingly, it sustained the appellant's assignment of error, reversed the suppression ruling, and remanded the case for further proceedings.	Baldwin	9/12/2025
State ex rel. Scales v Fuller	25 CAD 06 0048	Opinion and Judgement Entry from Delaware County Original Action	Dismissed	Writ - Original Action The court dismissed Scales's mandamus action, finding that the issues she raised—including discovery rulings, witness presentation, virtual testimony, and the removal of the guardian ad litem in her domestic relations case—are discretionary matters subject to review on direct appeal, not by extraordinary writ. The record showed that Scales had repeatedly sought removal of the guardian ad litem, with multiple denials by both the magistrate and Judge Fuller, and mandamus is not a proper vehicle to challenge those decisions because an adequate remedy exists through appeal. Likewise, Scales's claims of judicial bias fail, as her prior affidavits seeking Judge Fuller's disqualification under R.C. 2701.03 were denied by the Ohio Supreme Court, which has exclusive jurisdiction over such matters. Because mandamus cannot be used to control judicial discretion or disqualify a judge, the court granted Judge Fuller's Amended Motion to Dismiss and dismissed the complaint.	Popham	9/12/2025
In re S.D.	2025-CA-00019	Appeal from the Fairfield County Court of Common Pleas, Juvenile Division	Affirmed	Sufficient evidence to grant permanent custody The mother argued that the trial court erred by hearing the permanent custody motion before the statutory period ended, but the appellate court disagreed, finding the hearing was properly timed since the child had been in FCCPS's custody for more than twelve months of a consecutive twenty-two-month period, as stipulated by all parties. The court further held that the statutory requirements under R.C. 2151.414(B)(1)(d) were met, permitting the trial court to proceed to a best interest analysis. Evidence showed the mother failed to comply with key elements of her case plan, including mental health and substance abuse assessments, counseling, screenings, and stable housing, and she was incarcerated for part of the case period. Testimony revealed the child had endured trauma, suffered from behavioral and emotional issues, and required stability and specialized care, with the guardian ad litem supporting permanent custody. The trial court found the mother unable to provide a secure environment, and the appellate court concluded sufficient evidence supported the termination of parental rights. Accordingly, the judgment granting permanent custody to FCCPS was affirmed, with costs assessed to the mother.	King	9/16/2025



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State v. Bibbins	CT2025-0020	Appeal from the Court of Common Pleas of Muskingum County , Case No. CR2024-0613	Affirmed	Anders case; no error in guilty plea or sentencing Bibbin's court-appointed counsel filed an Anders brief stating that no non-frivolous grounds for appeal could be found, and the appellate court independently reviewed the record to confirm that assessment. The court determined that Bibbins's guilty plea was entered knowingly, intelligently, and voluntarily, with all required rights, penalties, and consequences explained, and the plea complied with Ohio law. At sentencing, the trial court imposed the jointly recommended sentence, which was mandatory under the relevant statutes for trafficking in fentanyl, the firearm specification, and the major-drug-offender specification. The judge also considered Bibbins's criminal history, statutory sentencing factors, and advised him of his mandatory post-release control obligations. Finding the plea and sentence proper and authorized by law, the appellate court granted counsel's motion to withdraw and affirmed the trial court's judgment, taxing costs to Bibbins.	Gormley	9/16/2025
State v. Robinson	2024CA00160	Appeal from the Stark County Court of Common Pleas, Case No. 2024-CR-0387	Affirmed	Jury instructions; Manifest weight and sufficiency of the evidence The appellant argued his conviction was unsupported by sufficient evidence, was against the manifest weight of the evidence, and that the trial court committed plain error by failing to give a limiting instruction regarding a demonstrative exhibit. The appellate court rejected these claims, finding the State presented sufficient medical and testimonial evidence that the child's injuries were not accidental and occurred while appellant was the sole caregiver, and that the jury was entitled to credit the State's witnesses over the defense's alternative theory. The court held the verdict was neither against the manifest weight of the evidence nor a miscarriage of justice. As to the demonstrative photograph, it was clearly identified as illustrative only and not evidence, and the appellant failed to demonstrate prejudice from the lack of a limiting instruction. Accordingly, all assignments of error were overruled, and the conviction was affirmed with costs assessed to the appellant.	Baldwin	9/16/2025
In re Guardianship of Maple	2025 AP 0002, 2025 AP 0001	Appeal from the Tuscarawas County Court of Common Pleas, Probate Division, Case No. 2024 GD 17073	Affirmed	No abuse of discretion in appointing Ohio Network for Innovation as guardian for the ward Appellants challenged the probate court's decision to appoint Ohio Network for Innovation as guardian over Stacia instead of her mother, but the appellate court affirmed. The court explained that probate courts have broad discretion in appointing guardians and must act in the ward's best interest, with no statutory preference for family members. The magistrate found the parents' household exhibited instability, dysfunction, and a pattern of enabling Stacia, concluding that only an independent guardian could provide the structure and services she needed. Supported by testimony from multiple witnesses, including Stacia's service providers and guardian ad litem, the record showed Ohio Network for Innovation was a suitable guardian and that the appointment served Stacia's best interests. The appellate court found no abuse of discretion and rejected appellants' arguments, affirming the probate court's judgment.	King	9/16/2025
In re J.H.	2024CA00184	Appeal from the Stark County Court of Common Pleas, Juvenile Division, Case No. 2022-JCR-01187	Reversed and Remanded	Juvenile Court was without jurisdiction to re-imposed a commitment to the Ohio Department of Youth Services when the term of juvenile's community control had expired In September 2022, Appellant was adjudicated delinquent in Stark County Juvenile Court for burglary and received a suspended DYS commitment with community control, which was later terminated in January 2023 after successful completion. In October 2024, Appellant was again adjudicated delinquent for complicity to aggravated robbery and committed to DYS for at least one year, with the juvenile court also re-imposing the previously suspended one-year DYS term from the 2022 case. On appeal, Appellant argued the court lacked authority to re-impose the suspended commitment because his community control in that case had expired in April 2024. The State conceded the error, and the appellate court agreed, reversing the judgment and remanding the case for further proceedings, with costs waived.	Hoffman	9/16/2025
Berlin Twp. Bd. of Trustees v. TowerCo 2013, L.L.C.	25 CAE 020015	Appeal from the Delaware County Court of Common Pleas, Case No. 22 CVH 06 0295	Dismissed	Not a final appealable order The township argued that the trial court's clarification entry was a final order because it affected a substantial right, was issued in a special proceeding, and granted a provisional remedy. The appellate court rejected these claims, finding no substantial right was implicated since the township could still enforce the November 29, 2022 order if construction resumed, and TowerCo's ability to apply for a conditional use permit did not alter the township's right to seek zoning compliance. The court further determined that the clarification entry did not grant a provisional remedy, but merely stated that applying for a zoning permit was not "construction activity" prohibited by the prior order. Because the entry neither prevented the township from obtaining judgment nor changed the status quo, it was not a final appealable order, and the appeal was dismissed for lack of jurisdiction, with costs assessed to the township.	King	9/16/2025