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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. Bollar	2026CA00112	Appeal from the Stark County Court of Common Pleas, Case No. 2019CR1620	Affirmed	Petition for Post-Conviction Relief; Res Judicata Defendant-Appellant Marquis Bollar appealed the Stark County Court of Common Pleas' May 13, 2026 judgment denying his second, pro se petition for post-conviction relief and request for an evidentiary hearing. Bollar had pleaded guilty to involuntary manslaughter, felonious assault, and having a weapon while under disability, along with firearm specifications, after shooting and killing Erica Delong in 2019. His original appeal challenged the imposition of multiple firearm specifications, but the Fifth District Court of Appeals and the Ohio Supreme Court upheld the sentence, with the Supreme Court concluding that R.C. 2929.14(B)(1)(g) required separate prison terms for multiple firearm specifications. In 2026, Bollar again challenged the firearm-specification sentences through post-conviction proceedings, but the trial court found his petition untimely and successive, and the appellate court agreed that he failed to satisfy the requirements of R.C. 2953.23 and that his claims were barred by res judicata because they had been or could have been raised previously. The court also held that it lacked jurisdiction to review other trial-court entries not identified in Bollar's notice of appeal and that he had no right to file a reply memorandum before dismissal of his post-conviction petition. Accordingly, the Fifth District overruled all of Bollar's assignments of error and affirmed the judgment of the Stark County Court of Common Pleas.	Hoffman	8/28/2026
State v. McKim	26CA000002 26CA000003	Appeal from the Cambridge Municipal Court, Guernsey County , Ohio, Case Nos. TRC2502742 TRC2601590	Affirmed	Suppression; Motion fails to state grounds with particularity; Investigation of accident Defendant-Appellant David McKim appealed the judgment of the Guernsey County Municipal Court convicting him, following a no-contest plea, of operating a motor vehicle with a prohibited urine alcohol level and sentencing him to 60 days in jail with 57 days suspended. McKim was involved in a single-car accident after striking a guardrail, and Trooper Joshua Zaugg observed signs of intoxication, including an odor of alcohol, bloodshot and glassy eyes, and slurred speech. Field sobriety testing indicated impairment, and a urine test showed an alcohol level of .142. McKim filed a motion to suppress challenging, among other things, the legality of his detention before Trooper Zaugg arrived, but at the suppression hearing he abandoned his other arguments and claimed only that Officer Andrew Stewart lacked reasonable suspicion to detain him while awaiting the trooper. The trial court denied the motion, finding that police were responding to an accident rather than conducting a traffic stop and that McKim failed to establish that he was detained before Trooper Zaugg removed him from the vehicle for field sobriety testing. On appeal, the court held that McKim waived his detention argument because he failed to raise it with sufficient particularity in his suppression motion. The court further concluded that officers responding to an accident do not need reasonable suspicion of criminal activity to approach and investigate the driver, and McKim did not allege that Officer Stewart improperly prolonged the accident investigation. Accordingly, the appellate court overruled McKim's assignment of error and affirmed the judgment of the Cambridge Municipal Court.	Montgomery	8/28/2026
State v. Hooper	2025CA00140	Appeal from the Court of Common Pleas of Stark County , Case No. 2025CR0471	Affirmed	Evidence presented at the defendant's trial supported his convictions on kidnapping and felonious-assault charges where he confined the victim in a basement, threatened to kill her if the police came, threw glassware and cigarette butts at her, and struck her with a metal pipe. Richard Allan Hooper challenged his convictions for kidnapping and felonious assault arising from an incident involving his girlfriend in March 2025. Hooper argued that the State failed to prove that he restrained the victim with the purpose of terrorizing her and failed to establish that he used a metal pipe as a deadly weapon. The Fifth District Court of Appeals rejected both arguments. The evidence showed that Hooper prevented the victim from leaving the basement for hours, threatened to kill her, repeatedly threw objects at her, punched her, chased her when she attempted to escape, and continued threatening her, including statements captured on an audio recording. Regarding felonious assault, the court found sufficient evidence that Hooper struck the victim's hands with a metal pipe based on the deputy's testimony, her medical records, photographs showing swelling and injuries, and the pipe recovered from the basement. The court also rejected Hooper's manifest-weight arguments, concluding that the jury was entitled to assess the credibility of the witnesses and weigh the evidence, which supported the State's case. Because this was not an exceptional case in which the evidence weighed heavily against the convictions, the court overruled both assignments of error and affirmed the judgment of the Stark County Court of Common Pleas	Gormley	9/1/2026



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State v. Cottrell	CT2026-0056	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2021-0431	Affirmed	Successive petition for postconviction relief properly denied. Chiron Cottrell appealed the Muskingum County Court of Common Pleas' denial of his motion to dismiss his felony convictions for an alleged speedy-trial violation. Cottrell had previously pleaded guilty to engaging in a pattern of corrupt activity and drug trafficking and had repeatedly raised claims involving speedy-trial rights, ineffective assistance of counsel, his guilty plea, and other constitutional violations in prior appeals and postconviction petitions. The Fifth District Court of Appeals held that Cottrell's latest filing was essentially another successive petition for postconviction relief and that, under R.C. 2953.23(A)(1), the trial court lacked jurisdiction to consider it because Cottrell failed to identify newly discovered facts or a newly recognized federal or state right that would permit a successive petition. The court also noted that Cottrell had previously signed a time waiver and had already litigated his speedy-trial claims. Because he merely repeated arguments that had already been rejected, the court found no abuse of discretion by the trial court and overruled all seven assignments of error, affirming the judgment of the Muskingum County Court of Common Pleas.	King	9/1/2026
In re A.M.	CT2026-0019 CT2026-0020 CT2026-0021	Appeal from the Muskingum County Court of Common Pleas, Juvenile Division Case Nos. 22330057 22330058 22430021	Affirmed	Permanent Custody C.M. appealed the Muskingum County Juvenile Court's decision granting permanent custody of her three children, A.M., K.L., and N.D., to Muskingum County Adult and Child Protective Services and terminating her parental rights. The children had been removed from C.M.'s care because of concerns involving an unsafe home environment and substance abuse, and C.M.'s case plan required her to address substance abuse, mental health, parenting, and housing issues. Although she made progress by completing parenting classes and substance-abuse treatment, maintaining appropriate housing, and consistently visiting the children, the evidence showed continuing substance-abuse concerns, including positive tests for methamphetamine and methadone and repeated negative tests for prescribed Suboxone. The Fifth District Court of Appeals concluded that the children had been in the Agency's temporary custody for more than 12 of 22 months, providing an independent statutory basis for permanent custody, and that competent, credible evidence supported the finding that the children could not or should not be returned to Mother within a reasonable time. The court also determined that permanent custody was in the children's best interests because they needed a legally secure and stable placement, were doing well in their foster home, and the Guardian ad Litem recommended permanent custody. Finally, the court rejected Mother's argument that the Agency failed to make reasonable reunification efforts, noting that the juvenile court had made reasonable-efforts findings at earlier hearings that Mother did not challenge. Accordingly, all four assignments of error were overruled, and the judgment granting permanent custody to the Agency was affirmed.	Popham	9/1/2026
State v. Smith	2026 CA 00020	Appeal from the Court of Common Pleas of Licking County , Case No. 2024 CR 00178	Affirmed	The trial judge did not abuse his discretion by refusing to replace the defendant's third court-appointed counsel on the day before and day of a jury trial despite an alleged breakdown in the attorney-client relationship. In addition, no plain error is evident in the trial court's jury instruction on the culpable mental state of "knowingly" in a prosecution under R.C. 2923.16(D)(1) for knowingly transporting a loaded handgun in a vehicle while the defendant was under the influence of alcohol. Trevor Smith appealed his conviction for improperly handling a firearm in a motor vehicle, arguing that the trial court erred by refusing to allow his third appointed attorney to withdraw and by giving the jury an improper instruction concerning the "knowingly" element of the offense. Smith's attorney sought to withdraw the day before trial because of communication problems and disagreements over trial strategy, and Smith renewed his request for new counsel on the morning of trial, claiming his attorney had failed to adequately defend him. The Fifth District Court of Appeals found no abuse of discretion, noting that Smith had already gone through two appointed attorneys, had received at least 12 continuances, made his request immediately before trial, and failed to identify specific necessary motions, witnesses, or evidence that counsel had neglected; his attorney was also prepared and actively represented him throughout the two-day trial. Smith also argued that the jury instruction was defective because, when explaining "knowingly," the court referred to awareness that he had a handgun rather than specifically a "loaded handgun." Because Smith did not object at trial, the appellate court reviewed the issue for plain error and found none, concluding that the jury was properly instructed on all elements of the offense, including the definition of "loaded," and that the evidence—including Smith's admission that the gun was in his vehicle, the loaded magazine found in the gun, and his own testimony acknowledging the ammunition—established that the outcome would not have been different. Accordingly, both assignments of error were overruled, and the judgment of the Licking County Court of Common Pleas was affirmed.	Gormley	9/1/2026



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State v. Kindred	2026 CA 00008	Appeal from the Licking County Court of Common Pleas, Case No. 2025 CR 00570	Sentence Vacated & Remanded	R.C.2929.14(C)(4) findings to impose consecutive service lacked required language. Crystal L. Kindred appealed her four-year, nine-month prison sentence following guilty pleas to multiple charges, including receiving stolen property, safecracking, possessing criminal tools, burglary, and tampering with evidence. She argued that the trial court failed to make the findings required by R.C. 2929.14(C)(4) before imposing consecutive sentences and that its findings were unsupported by the record. The Fifth District Court of Appeals agreed in part, concluding that the trial court failed to make all of the required consecutive-sentence findings both during the sentencing hearing and in the sentencing entry. Specifically, although the court found that consecutive sentences were necessary to protect the public or punish Kindred and were not disproportionate, it failed to find that at least two offenses were committed as part of one or more courses of conduct before determining that the resulting harm was so great or unusual that a single prison term would not adequately reflect the seriousness of the conduct. Because R.C. 2929.14(C)(4)(b) requires both findings, the appellate court found plain error, vacated Kindred's sentence, and remanded the case to the trial court for resentencing. Assignment of Error I was sustained, while Assignment of Error II was deemed premature.	King	9/1/2026