



Stark County Law Library
110 Central Plaza South, Suite 401, Canton, OH 44702
www.starkcountyohio.gov/law-library



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. Cohen	2025 CA 00025	Appeal from the Fairfield County Municipal Court, Case No. TRC2405492	Affirmed	OVI; Strict liability offense; Sufficiency of evidence; Manifest weight of evidence; Harmful intoxicants; R.C. 4511.19(A)(1) Daniel Cohen appealed his jury conviction in the Fairfield County Municipal Court for operating a vehicle under the influence in violation of R.C. 4511.19(A)(1)(a), arguing insufficient evidence, that the conviction was against the manifest weight of the evidence, and that the trial court erred in refusing to instruct the jury on involuntary intoxication based on alleged exposure to toxic fumes from Rust-Oleum and roach foggers. The appellate court affirmed, holding that OVI under R.C. 4511.19(A)(1)(a) is a strict-liability offense, making involuntary intoxication inapplicable as a defense. The court further found sufficient evidence of impairment, including eyewitness testimony of erratic driving, the responding officer's observations of bloodshot eyes, slurred speech, confusion, the odor of alcohol and marijuana, and Cohen's own admissions to consuming alcohol and marijuana. Finally, the court concluded the jury did not lose its way in crediting the State's evidence over the defense theory, and therefore upheld the conviction and sentence.	Montgomery	2/9/2026
State v. Ginier	2025 AP 08 0030	Appeal from the Tuscarawas County Court of Common Pleas, Case No. 2019 CR 09 0380	Affirmed	Res judicata; Post-conviction Arthur J. Ginier, III, appealed the denial of his 2025 motion to correct his 2020 sentencing entry following his no-contest pleas to attempted murder, felonious assault, two counts of grand theft of a motor vehicle, and theft, for which he received an agreed aggregate sentence of seven to ten and a half years in prison. In his motion, filed more than five years after sentencing, Ginier argued the trial court failed to advise him that for non-life felonies there is a presumption of early release after the minimum term under R.C. 2967.271(B), and he sought a nunc pro tunc entry to correct the omission. The appellate court affirmed the denial, holding that his claims were barred by res judicata because they could have been raised on direct appeal, which he failed to file, and further noting that he did not provide a transcript of the plea and sentencing hearings, requiring the court to presume the validity of the trial court proceedings.	Montgomery	2/9/2026
In re Estate of Ryan v. Brookdale Zanesville	CT2025-0066	Appeal from the Muskingum County Court of Common Pleas, Case No. CA2024-0421	Affirmed	Arbitration Agreement - Procedurally and Substantively Unconscionable Brookdale Zanesville appealed the Muskingum County Court of Common Pleas' denial of its motion to stay proceedings and compel arbitration in a wrongful death and negligence action filed by the Estate of Penny A. Ryan, a former resident who died after multiple falls at the facility. The appellate court affirmed, finding the arbitration provision in the residency agreement unenforceable due to both procedural and substantive unconscionability. The court distinguished the agreement from that upheld in Hayes, noting the provision was embedded within an 18-page contract, was not presented as voluntary, and did not clearly inform the resident's representative that arbitration was optional or negotiable. The court also found the provision failed to comply with multiple mandatory requirements of R.C. 2711.23 governing pre-dispute arbitration agreements in medical and nursing home contexts, including provisions requiring notice that care would be provided regardless of signing, a right to withdraw consent, a separate arbitration document, and a three-member arbitration panel. Because the Estate established both procedural and substantive unconscionability, the court held the trial court did not err in refusing to enforce the arbitration agreement.	Hoffman	2/9/2026
State v. Ellis	CT2025-0082	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2025-0253	Affirmed	Suppression Brent E. Ellis appealed the denial of his motion to suppress evidence obtained following a traffic stop that led to multiple drug and firearm charges, including aggravated trafficking and possession offenses with firearm specifications. Police observed Ellis leave a residence known for drug activity and stopped him for speeding; during the stop, an officer saw a butane torch and plastic baggies in the vehicle and received a false statement about Ellis's whereabouts. A K-9 trained to detect narcotics, including marijuana, alerted on the vehicle, after which officers discovered a loaded firearm on Ellis's person and, in a bag inside the car, another firearm, marijuana, and a large quantity of methamphetamine. Ellis argued the canine sniff was unreliable and could not establish probable cause because marijuana is now legal in Ohio. The appellate court affirmed, holding that under the totality of the circumstances— independent of the dog alert—there was probable cause to search the vehicle. The court also rejected his second assignment of error, noting he improperly treated the K-9 alert as the sole basis for the search and failed to adequately support his argument with legal authority, warranting its disregard.	Baldwin	2/9/2026
State v. Thorpe	CT2025-0070	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2025-0312	Affirmed	Anders; Crim.R. 11; Guilty plea; Sentencing In this appeal, appointed counsel for Dustin Thorpe filed a motion to withdraw and an Anders brief, asserting that after a thorough review of the record, no non-frivolous issues existed for appeal. Thorpe had pled guilty to two second-degree felony drug trafficking offenses, one third-degree felony drug possession offense with a one-year firearm specification, and one count of weapons while under disability, receiving an aggregate 12-year prison term, nine years mandatory, following a negotiated plea in which other counts and specifications were dismissed. After independently reviewing the record, the appellate court found Thorpe's guilty pleas were entered knowingly, intelligently, and voluntarily in full compliance with Crim.R. 11, and that his sentence was within the statutory range, properly considered the purposes and principles of sentencing, and was not contrary to law. Concluding the appeal was wholly frivolous under Anders, the court granted counsel's motion to withdraw and affirmed the judgment of the Muskingum County Court of Common Pleas.	Montgomery	2/9/2026

Case Caption	Case No(s)	Character of Proceeding	Judgment	Topics and Issues	Author	Date of Judgment Entry
In re L.G.	2025CA00115, 2025CA00116	Appeals from the Court of Common Pleas of Stark County , Family Court Division, Case Nos. 2024JCV00452 and 2024JCV00453	Affirmed	The trial court properly awarded permanent custody of father's two children to a county children's services agency. Michael G. appealed the Stark County Family Court's decision granting permanent custody of his daughters, L.G. and M.G., to Stark County Job & Family Services, arguing the evidence did not support findings that the children could not be returned to him within a reasonable time, that permanent custody was in their best interests, and that his right to counsel was violated when a caseworker spoke with him outside his attorney's presence. The appellate court affirmed, holding that clear and convincing evidence supported the trial court's determination under R.C. 2151.414(B)(1)(a) and (E)(1) that Michael failed to substantially remedy the conditions leading to removal, including missed drug screens, refusal to establish paternity for L.G., financial instability, and concerns about the stability of his housing due to his live-in girlfriend's history. The court further found that the children were thriving in a stable, pre-adoptive foster home that met their educational and medical needs, and that permanent custody served their best interests. Finally, the court rejected Michael's right-to-counsel claim, concluding the trial court did not treat his earlier out-of-court statement favoring adoption as a binding agreement and that he cited no authority requiring counsel's presence during his voluntary conversation with the caseworker.	Gormley	2/9/2026
State v. Denny	CT2025-0068	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2022-0421	Affirmed	Anders - Guilty Plea - Sentencing - Theft - Passing Bad Checks Que'on Denny appealed his convictions and aggregate 24-month consecutive prison sentence after pleading guilty to two counts of theft and two counts of passing bad checks stemming from opening a bank account with \$20 and writing checks totaling over \$7,500 for goods without sufficient funds. In exchange for his pleas, a receiving stolen property charge was dismissed, and the trial court merged each theft count with its corresponding bad-check count, sentencing him to 12 months on each theft conviction to be served consecutively. Appointed appellate counsel filed an Anders brief and motion to withdraw, asserting the appeal was frivolous. After independently reviewing the record, the appellate court found the trial court complied with Crim.R. 11 in accepting the guilty pleas and that the sentence was within the statutory range, properly considered R.C. 2929.11 and 2929.12, and was not contrary to law. The court further held that the required findings for consecutive sentences under R.C. 2929.14(C)(4) were supported by the record, including Denny's prior criminal history, repeated community control violations, prior prison terms, and bond violations. Concluding no arguably meritorious issues existed, the court granted counsel's motion to withdraw and affirmed the judgment.	Hoffman	2/10/2026
State v. Anderson	24 CAA 12 0110	Appeal from the Delaware County Court of Common Pleas, Case No. 24 CRI 04 0246	Affirmed	Self-defense; Manifest weight; 404(B) evidence; Prosecutorial misconduct; Discovery Rayshawn Lamont Anderson appealed his convictions for murder, felony murder, and related firearm offenses, for which he received an aggregate sentence of 27 years to life, arising from the March 8, 2024 shooting death of Alonzo Byrd outside a Delaware residence. Although acquitted of aggravated murder, the jury rejected Anderson's claim of self-defense after evidence showed he went to the home despite a no-contact order, initiated a confrontation, and shot Byrd five times—continuing to fire after Byrd fell—while Byrd's hands were full and no weapon was found. The appellate court held the convictions were not against the manifest weight of the evidence, finding the State disproved self-defense. It further rejected Anderson's Brady claim regarding unidentified juveniles who overheard an incriminating statement, concluding no due process violation occurred; upheld the admission of prior-acts evidence under Evid.R. 404(B) as relevant to motive and context; and found no reversible error or prosecutorial misconduct related to a question about Anderson's post-Miranda silence, particularly in light of the trial court's curative instruction. The court affirmed the judgment of the Delaware County Court of Common Pleas.	King	2/10/2026
Arthur v. Weir	2025CA0014	Appeal from the Coshocton County Court of Common Pleas, Probate Division, Case No. 21910096(D)	Affirmed	Trial court did not err in dismissing appellants' claims regarding payment of attorney fees for legal services rendered. Phillip Felton Arthur, individually and as executor of the Sandra Hoffman Estate, appealed the probate court's dismissal of their claims against the law firm Kegler, Brown, Hill, and Ritter and attorney Larry J. McClatchey, alleging the firm wrongfully received trust and guardianship assets as compensation for legal services performed for Guardian and Successor Trustee Jetta Mencer. The appellate court affirmed, rejecting Arthur's procedural claim that the trial court improperly considered an unserved proposed judgment entry, holding such proposals are not subject to Civ.R. 5 service requirements. On the merits, the court reviewed the dismissal under Civ.R. 12(C) and 56(C) standards and concluded the claims were barred by a 2018 settlement agreement that released Mencer and her agents, including the law firm, from related claims. The court noted the firm's fees were court-approved in 2018, no appeal was taken from those approvals, and any alleged improper transfers were claims against Mencer or the estate administrator—not the firm—which had already been dismissed with prejudice. Finding no genuine issues of material fact and no legal basis for relief, the court overruled all assignments of error and affirmed the judgment of the Coshocton County Court of Common Pleas, Probate Division.	King	2/10/2026
Arthur v. Weir	2025CA0013	Appeal from the Coshocton County Court of Common Pleas, Probate Division, Case No. 21910096(D)	Affirmed	Trial court did not err in dismissing appellants' claim regarding vehicle sale Phillip Felton Arthur, individually and as executor of the Sandra Hoffman Estate, appealed the probate court's dismissal of their claim against Marvin W. Lillibridge, who purchased a vehicle from the Estate of John Hoffman in 2019. In their sprawling second amended complaint, appellants briefly alleged that Lillibridge received a "wrongfully transferred asset" and sought return of the vehicle. Lillibridge filed a pro se answer asserting he was a bona fide purchaser and requesting dismissal. The trial court granted judgment on the pleadings, and the appellate court affirmed. It rejected appellants' argument that the dismissal was sua sponte, noting Lillibridge had filed an answer and sought dismissal, and the pleadings were closed. The court further found no evidence the vehicle transfer was concealed or improper, and concluded appellants had no beneficial interest in the estate assets beyond a previously distributed amount. Determining that appellants could prove no set of facts entitling them to relief and that no genuine issues of material fact existed, the appellate court affirmed the dismissal.	King	2/10/2026

Case Caption	Case No(s)	Character of Proceeding	Judgment	Topics and Issues	Author	Date of Judgment Entry
State v. Kennedy	2025CA00097	Appeal from the Stark County Court of Common Pleas, Case No. 2023-CR-1475	Affirmed	Petition for Postconviction Relief; Ineffective Assistance of Counsel; Res judicata; Evidence de hors the Record Defendant-appellant Willis Kennedy appealed the Stark County Court of Common Pleas’ July 14, 2025 decision denying his petition to vacate or set aside his murder conviction and sentence, which the trial court properly treated as a petition for postconviction relief. Kennedy had been indicted in 2023 for murder and felonious assault, convicted by a jury in January 2024, and sentenced to 15 years to life, with the assault count merged; his convictions were affirmed on direct appeal, and further review was declined. In his postconviction petition, Kennedy alleged ineffective assistance of counsel based on counsel’s failure to file motions for change of venue and bond reduction, failure to present exculpatory evidence, failure to investigate digital forensic evidence, failure to present the full police interview, and failure to seek funds for an expert. The trial court denied relief, finding many claims barred by res judicata because they could have been raised on direct appeal and concluding the remaining claims were speculative and unsupported by evidence outside the record demonstrating deficient performance and prejudice. On appeal, the Fifth District reviewed for abuse of discretion, held the petition was properly denied, determined Kennedy failed to present competent evidence dehors the record establishing substantive grounds for relief, and affirmed the trial court’s judgment.	Hoffman	2/11/2026
Pluskota v. McVicker	2025CA00080	Appeal from the Stark County Court of Common Pleas, Family Court Division, Case No. 2023 JCV 01381	Reversed and Remanded	Visitation; additional evidence; Civ. R. 53 Appellant Karen McVicker (“Mother”) appealed the June 18, 2025 judgment of the Stark County Court of Common Pleas, Family Court Division, which modified a magistrate’s decision regarding visitation between appellee Matthew Pluskota (“Father”) and their child, A.P. After trial, the magistrate had designated Mother as residential parent and ordered Father to have supervised visitation through a supervised service based on his criminal history, psychological evaluation diagnosing antisocial personality disorder, lack of candor, anger issues, and safety concerns. Father filed general objections, and before the objections hearing, the guardian ad litem (GAL) filed a “Notice” recommending that Father’s new wife, K.J., serve as supervisor and that visits occur at her home. Without permitting Mother to cross-examine the GAL or argue against the updated recommendation, the trial court overruled Father’s objections but modified the magistrate’s order to allow supervised visits with K.J. as supervisor. On appeal, the Fifth District held the trial court abused its discretion by relying on the GAL’s post-trial recommendation without affording the parties an opportunity to question the GAL or address the new evidence, particularly given the serious safety concerns at issue. The court reversed and remanded for further proceedings consistent with its opinion.	Popham	2/11/2026
State v. Bash	CT2025-0090	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2025-1277	Affirmed	Allied Offenses - Failure to Comply - Merger Defendant-appellant Glen M. Bash appealed his convictions and aggregate 44-month prison sentence imposed by the Muskingum County Common Pleas Court following his guilty pleas to two counts of failure to comply with the order or signal of a police officer and one count of possession of cocaine. The charges arose after Bash fled from police twice in the early morning hours of April 13, 2025—first when an officer attempted to stop him for speeding 70 mph in a 35 mph zone, and again shortly thereafter when the officer reinitiated a stop, leading to a 4.2-mile pursuit during which Bash ran stop signs before crashing into a parked vehicle; cocaine was found on his person. Bash argued at sentencing and on appeal that the two failure-to-comply counts should merge as allied offenses of similar import under R.C. 2941.25 and double jeopardy principles. The appellate court rejected this argument, holding that the two offenses were committed separately because the first offense was complete when the officer initially lost sight of Bash, and the second began when the officer reengaged and Bash again chose to flee. Concluding the trial court properly imposed separate consecutive sentences, the court affirmed the judgment.	Hoffman	2/11/2026
State v. Tomlin	25CA000008	Appeal from the Knox County Court of Common Pleas, Case No. 25CR02-0022	Affirmed	Failure to advise guilty plea is complete admission of guilt and failure to advise court could immediately proceed to sentence non-prejudicial Defendant-appellant Tara Tomlin appealed her conviction and indefinite six- to nine-year prison sentence for aggravated possession of drugs, arguing her negotiated guilty plea in the Knox County Court of Common Pleas was not knowingly, intelligently, and voluntarily entered because the trial court failed to advise her that a guilty plea is a complete admission of guilt and that the court could proceed immediately to judgment and sentencing. Tomlin was indicted after admitting during booking that she possessed approximately 18 grams of methamphetamine following a traffic stop. She signed a written Crim.R. 11 plea form outlining the charge, penalties, and rights waived, and during the plea hearing the court advised her of her constitutional rights and confirmed her understanding of the charge and potential penalties. The appellate court held that any failure to expressly state that a guilty plea is a complete admission of guilt or that sentencing could proceed immediately involved nonconstitutional advisements subject to substantial compliance review, and Tomlin failed to demonstrate prejudice. Concluding the plea colloquy as a whole complied with Crim.R. 11 and that Tomlin entered her plea knowingly, intelligently, and voluntarily, the court affirmed the judgment.	Popham	2/11/2026

Case Caption	Case No(s)	Character of Proceeding	Judgment	Topics and Issues	Author	Date of Judgment Entry
State v. Prater	25-COA-008	Appeal from the Ashland County Court of Common Pleas, Case No. 24-CRI-226	Affirmed	Complicity to aggravated burglary, tampering with drugs, failure to comply with the order or signal of a police officer - manifest weight and sufficiency of evidence - ineffective assistance of counsel and plain error in sentencing - consecutive sentencing Defendant-appellant Robert Prater appealed his convictions and aggregate prison sentence of approximately 25 to 30 years following a jury trial in the Ashland County Common Pleas Court for his role in a coordinated Rite Aid pharmacy robbery and subsequent high-speed chase. Prater and four others traveled from Dayton to Ashland to steal drugs from a store safe; while two accomplices forced entry into the pharmacy area and implied they had a firearm, Prater acted as a lookout and signaled the others to flee when police were called. The group led officers on a 75-mile chase reaching speeds of 142 mph, discarding pill bottles and consolidating drugs into a bag before being apprehended. Prater was convicted of multiple offenses, including complicity to aggravated burglary and failure to comply, tampering with drugs, safecracking, and several counts of aggravated possession of drugs. On appeal, he challenged the sufficiency and manifest weight of the evidence, argued ineffective assistance of counsel for failing to object to allegedly disproportionate and cruel and unusual sentences, and claimed error in the imposition of consecutive sentences. The appellate court rejected all assignments of error, finding sufficient evidence supported his complicity convictions, the jury did not lose its way, his sentences were within statutory ranges and not disproportionate or unconstitutional, and the trial court made the required findings for consecutive sentences. The court affirmed the judgment.	Hoffman	2/11/2026
State v. Evans	2025CA00113	Appeal from the Stark County Court of Common Pleas, Case No. 2023CR1304	Affirmed	Public records request by inmate Quintin Evans, an inmate convicted in 2023 of pandering obscenity involving a minor and unlawful sexual conduct with a minor, appealed the Stark County Court of Common Pleas' July 31, 2025 judgment denying his pro se motion for public records under R.C. 149.43(B)(8). Evans sought a copy of his plea and sentencing entry, claiming it was needed for a potential collateral attack or motion for leave to file a delayed appeal. The trial court denied the request, finding he failed to demonstrate that the records were necessary to support a "justiciable claim" as required for incarcerated individuals seeking records related to a criminal prosecution. On appeal, the court reviewed for abuse of discretion and affirmed, holding that because Evans did not identify any pending proceeding in which the requested documents would be material, he failed to establish a justiciable claim under R.C. 149.43(B)(8), and therefore the trial court properly denied his motion.	Montgomery	2/12/2026
State v. Gadison	2025 CA 00060 & 2025 CA 00061	Appeal from the Stark County Canton Municipal Court, Case Nos. 2025 CRB 0125, 2025 TRD 0160	Affirmed	Suppression Percy Gadison appealed the Canton Municipal Court's May 9, 2025 decision denying his motion to suppress evidence arising from a traffic stop, arguing the court misunderstood the record and improperly credited unreliable testimony from Detective Michael Brown. Brown had received a tip that Gadison was selling drugs, reviewed law enforcement databases confirming Gadison's license was suspended, and later observed him first standing beside and then driving a Chrysler 300, prompting a stop for driving under suspension and failure to comply. After his suppression motion was denied, Gadison entered no contest pleas and appealed. The appellate court affirmed, finding the trial court accurately reflected the evidence that Brown saw Gadison driving at a different location from the gas station and properly credited Brown's testimony despite the stop occurring after dark, noting the vehicle lacked tinted windows and Brown was familiar with Gadison's appearance. Concluding the stop was supported by knowledge of Gadison's suspended license and that no manifest miscarriage of justice occurred, the court overruled both assignments of error and upheld the judgment.	King	2/12/2026