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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. Higginbotham	2025 CA 00034	Appeal from the Licking County Court of Common Pleas, Case No. 2024-CR00525	Affirmed	Self-Defense/bolstering/plain error/harmless error Defendant-Appellant Tracy D. Higginbotham appealed his conviction for felonious assault arising from an August 2024 altercation with a teenage passenger after a verbal dispute involving a remark about his daughter. At trial, multiple teenage witnesses testified that Higginbotham angrily ordered the teen out of his truck, pulled him out by the hair, and—after the situation had de-escalated—punched him in the face, causing a through-and-through lip laceration requiring stitches, while Higginbotham and his wife claimed he acted in self-defense after being attacked. A jury found Higginbotham guilty, and the trial court imposed community control with jail time, monitoring conditions, and a fine. On appeal, Higginbotham argued his conviction was against the manifest weight of the evidence because the State failed to disprove self-defense and that the trial court improperly admitted hearsay and opinion testimony bolstering witness credibility. The appellate court rejected both claims, holding that the jury reasonably resolved conflicting testimony against Higginbotham, that the State presented sufficient credible evidence to negate self-defense, and that any evidentiary errors were harmless or did not rise to plain error. Accordingly, the judgment of the Licking County Court of Common Pleas was affirmed.	Popham	1/12/2026
State v. Henthorne	2024 CA 0031	Appeal from the Richland County Court of Common Pleas, Case No. 2023-CR-0456N	Affirmed in part; Reversed and Remanded in part	Prosecutorial misconduct; Mandatory sentencing Appellant Chad E. Henthorn appealed his convictions and sentence stemming from a violent assault and kidnapping at his Richland County residence, where the victim was lured for electrical work, brutally beaten, restrained, and left with life-threatening injuries, while Henthorn assisted in restraining the victim and later destroyed and concealed evidence. A jury found Henthorn guilty of complicity to kidnapping, felonious assault, and two counts of tampering with evidence, and he received an aggregate sentence of 25 to 30½ years in prison. On appeal, Henthorn raised multiple assignments of error, including claims that the verdicts were against the manifest weight of the evidence, that he was improperly denied access to his codefendant’s psychological report, that prosecutorial comments violated his rights, that counsel was ineffective, that allied offenses should have merged, and that the trial court improperly imposed a mandatory sentence for kidnapping. The appellate court rejected all claims except the sentencing issue, holding that the evidence overwhelmingly supported the convictions, no discovery or trial errors warranted reversal, and the offenses were committed with separate animus and properly sentenced consecutively, but concluding that kidnapping under the charged statute was not subject to mandatory sentencing. The convictions were therefore affirmed, the mandatory nature of the kidnapping sentence was reversed as contrary to law, and the case was remanded for resentencing.	Baldwin	1/12/2026
State v. Williams	CT2025-0062	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2025-0199	Affirmed	Sentencing Appellant Marquise T. Williams appealed the sentence imposed after he pled guilty to one count of felonious assault in the Muskingum County Court of Common Pleas, arguing that the trial court failed to impose the minimum sanctions necessary under R.C. 2929.11. Williams entered his plea in exchange for dismissal of remaining charges and a joint recommendation of a three-year prison term, stemming from a domestic incident in which he assaulted the mother of his child and inflicted a serious leg wound with scissors. Although both parties urged the court to adopt the recommended sentence, the trial court rejected it and imposed a prison term of five to seven-and-a-half years. On appeal, the Fifth District Court of Appeals held that the sentence was within the statutory range, that trial courts are not bound by jointly recommended sentences, and that the record demonstrated the trial court properly considered the purposes and principles of felony sentencing under R.C. 2929.11 and the seriousness and recidivism factors under R.C. 2929.12. Finding no clear and convincing evidence that the sentence was contrary to law, the appellate court overruled the sole assignment of error and affirmed the judgment.	Baldwin	1/12/2026
In re A.B.	2025 CA 00039	Appeal from the Fairfield County Court of Common Pleas, Juvenile Division, Case No. CU-2024-0004	Affirmed	Legal Custody - Grandparent Visitation - Guardian ad litem Report - Statutory Notice Appellant Laura Shufeldt appealed the Fairfield County Juvenile Court’s judgment awarding legal custody of her minor grandchild, A.B., to nonrelative caregiver Monica Lampron and limiting Shufeldt’s visitation to one weekend per month. The evidence showed that A.B.’s parents had longstanding substance abuse issues and stipulated they were unfit, that A.B. had lived primarily with Lampron for years, was bonded to her, and was thriving academically, socially, and emotionally in Lampron’s care. Although Shufeldt raised concerns about Lampron’s household, the trial court found those concerns largely based on information from the non-credible mother and unsupported by the evidence, while the guardian ad litem recommended custody to Lampron and limited visitation for Shufeldt. On appeal, the Fifth District Court of Appeals held that the trial court did not abuse its discretion in determining A.B.’s best interests, in setting the visitation schedule, in considering the guardian ad litem’s report, or in declining to treat Shufeldt as a non-residential parent for statutory notice purposes. Accordingly, all assignments of error were overruled and the judgment awarding legal custody to Lampron was affirmed.	Hoffman	1/12/2026

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Conomy v. Conomy	25 CAF 06 0047	Appeal from the Delaware County Court of Common Pleas, Domestic Relations Division, Case No. 23 DR A 10 0625	Dismissed	Dismiss for lack of final appealable order Appellant Christopher P. Conomy appealed multiple trial court orders entered in ongoing Delaware County divorce and custody proceedings, including orders denying his motions to modify temporary custody and parenting time, refusing to remove the magistrate and guardian ad litem, declining to impose sanctions, and requiring him to submit to a psychological evaluation. Conomy raised six assignments of error alleging abuse of discretion and violations of his parental and constitutional rights. The Fifth District Court of Appeals, however, determined that all of the challenged orders were interlocutory and not final appealable orders because they addressed temporary custody, discovery and evaluation matters, magistrate and guardian ad litem assignments, and sanctions, while the underlying divorce and custody issues remained pending and the entries lacked Civ.R. 54(B) language. Because none of the orders affected a substantial right in a manner permitting immediate appellate review, the court concluded it lacked jurisdiction and dismissed the appeal for want of a final appealable order.	Baldwin	1/12/2026
In re B.C.	25CA000025	Appeal from the Guernsey County Court of Common Pleas, Juvenile Division, Case No. 24JG00203	Affirmed	Modification of custody; Trial Court did not abuse its discretion in finding change of circumstances warranting modification; best interest of child to modify custody; and harm outweighed by benefit Mother appealed the Guernsey County Juvenile Court's June 24, 2025 judgment overruling her objections to a magistrate's decision that designated Father as the legal custodian and residential parent of their minor child. The record showed a prolonged pattern of Mother's willful refusal to comply with court-ordered parenting time, including repeated failures to bring the child to supervised visits, failure to produce the child for court hearings, misleading the court about the child's whereabouts, and explicit statements that she would never allow Father to see the child regardless of court orders. Although Mother alleged sexual abuse and relied on Father's prior sex-offense conviction, investigations resulted in no charges, and evidence showed Mother had lived with Father for years after his conviction without raising such concerns. The magistrate found a substantial change in circumstances caused by Mother's persistent interference with Father's relationship with the child and concluded that transferring custody to Father was in the child's best interest. The trial court independently reviewed the matter, adopted the magistrate's findings, and the appellate court affirmed, holding the trial court did not abuse its discretion in modifying custody and that Mother failed to show legal error.	Hoffman	1/13/2026
Kahle v. Nethers	25-CA-00003	Appeal from the Municipal Court of Perry County , Ohio, Case No. CVG2200153	Remanded	Default judgment damages hearing Larry Kahle, the owner of rental property in Glenford, Ohio, filed a forcible entry and detainer action against his tenant, Delores Nethers, in April 2022 for nonpayment of rent, and the trial court initially granted eviction. After Nethers later obtained leave to file an answer and counterclaim, Kahle failed to respond, and in August 2024—more than two years later—the trial court entered default judgment in Nethers's favor and subsequently awarded her \$15,000 in damages without holding a hearing. Kahle appealed, asserting multiple errors related to defective service, lack of required notice under Civ.R. 55(A), and the failure to conduct evidentiary hearings before entering default judgment and determining unliquidated damages. The appellate court agreed, finding that Kahle had appeared in the action and was entitled to seven days' notice and a hearing, that service of the counterclaim and default motions was defective, and that the trial court abused its discretion by awarding damages without a hearing. Accordingly, the appellate court vacated both the default judgment and the damages award and remanded the case for further proceedings.	Montgomery	1/15/2026
Craig v. Amos	25-COA-019	Appeal from the Ashland County Court of Common Pleas, Case No. 23-CIV-093	Affirmed	Absolute immunity; Malicious prosecution; Summary judgment; Judgment on the pleadings; Civ.R. 12; Judicial proceedings; Quasi-judicial proceeding Freddie Craig appealed the Ashland County Court of Common Pleas' dismissal of his civil claims against Joyce Amos and Police Chief Jerry Snay arising from his 2022 arrest for menacing by stalking, which was later dismissed. Craig alleged malicious prosecution and related torts, claiming he was charged without probable cause. The trial court dismissed all claims against Amos on the pleadings, finding her statements to law enforcement were protected by absolute litigation privilege, and later granted summary judgment to Chief Snay, concluding the decision to prosecute was made independently by the village prosecutor based on probable cause. On appeal, Craig challenged only the malicious prosecution claims, abandoning his remaining causes of action. The appellate court affirmed, holding that Amos was absolutely immune for reporting alleged criminal conduct, and that Snay did not institute the prosecution because the prosecutor exercised independent discretion in filing the charge, thereby breaking the causal chain. Accordingly, the appellate court overruled all assignments of error and affirmed the trial court's judgment in full.	Montgomery	1/15/2026
State v. Siler	25 CAA 07 0053	Appeal from the Delaware County Court of Common Pleas, Case No. 24 CR I 10 0603	Affirmed	Admissibility of blood test results at trial where sample was withdrawn beyond 3 hours Gerald Siler appealed his felony OVI convictions and sentence, arguing that trial counsel was ineffective for failing to file a motion to suppress blood-alcohol evidence obtained after his arrest following a single-vehicle crash in April 2024. The evidence showed Siler exhibited signs of intoxication, refused field sobriety and breath tests, and resisted a court-authorized blood draw that later revealed a blood alcohol concentration of 0.135, with expert testimony estimating an even higher level at the time of driving. On appeal, Siler contended the blood test was inadmissible because the sample was not properly handled and analyzed in compliance with statutory and administrative requirements. The appellate court rejected this claim, finding the State substantially complied with applicable regulations, presented qualified expert testimony, and that any minor procedural deviation—such as uncertainty over whether the sample was inverted—did not demonstrate prejudice. Because a motion to suppress would not have been successful, the court held Siler failed to establish ineffective assistance of counsel and affirmed the convictions and sentence.	Popham	1/15/2026

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In re Estate of Alibrando v. Minor	2025 CA 00051	Appeal from the Licking County Court of Common Pleas, Probate Division, Case No. 2019-0068A	Affirmed in part; Reversed in part; Remanded	Concealment, power of attorney & constructive trust This probate dispute arose after the death of Guito Alibrando, whose will left \$100,000 to his longtime partner, Constance Miner, and the remainder to his sons, Matthew and Vincent, while Miner was also a joint owner with right of survivorship on a checking account and held a durable power of attorney. After Miner sold Guito's home during his lifetime and deposited the proceeds into the joint account, then later transferred the remaining funds to herself after his death, the sons alleged concealment of estate assets, breach of fiduciary duty, and sought a constructive trust. Following a bench trial, the probate court found no concealment but ruled Miner breached fiduciary duties by placing the home-sale proceeds into the joint account, treating those proceeds as estate property, while denying removal of Miner as executrix, attorney fees, and prejudgment interest. On appeal and cross-appeal, the Fifth District Court of Appeals affirmed in part and reversed in part, holding that Matthew and Vincent expressly abandoned their claims that Miner misused the power of attorney before Guito's death, that the power of attorney terminated upon death, and that the joint-and-survivorship account conclusively passed to Miner as a non-probate asset absent fraud or undue influence. The appellate court concluded the trial court erred in finding Miner violated the Uniform Power of Attorney Act and in treating the home-sale proceeds as estate property, but properly rejected the concealment claim, exclusion of the late-disclosed expert, and requests for attorney fees, interest, and Miner's removal as executrix. The matter was therefore affirmed in part, reversed in part, and remanded for proceedings consistent with the appellate opinion.	Popham	1/15/2026
State v. Morrison	CT2025-0088	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2025-0098	Dismissed	Forfeiture; Standing Michael N. Morrison appealed the Muskingum County Court of Common Pleas' August 25, 2025 judgment ordering the forfeiture of a 2015 BMW X1 following his guilty pleas to improperly handling firearms in a motor vehicle and aggravated possession of drugs, both with forfeiture specifications. At sentencing, Morrison objected to forfeiture on the ground that the vehicle was owned by his mother, D.M., not him, and the trial court later held a forfeiture hearing at which D.M. and her husband testified they purchased the vehicle with their own funds, though conflicting testimony from a prior owner raised questions about the transaction. The trial court found D.M. failed to establish ownership and ordered forfeiture, and Morrison appealed, arguing the forfeiture violated statutory law and constituted an unconstitutional taking. The appellate court dismissed the appeal, however, concluding that standing in criminal forfeiture cases is jurisdictional and that a defendant who disclaims any ownership interest in the property lacks standing to challenge its forfeiture; because Morrison asserted the vehicle belonged to his mother and she did not appeal the forfeiture order, Morrison's sole assignment of error was dismissed and the appeal was dismissed in its entirety.	Baldwin	1/15/2026