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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. Starcher	25CA004	Appeal from the Holmes County Court of Common Pleas, Case No. 24 CR 46	Affirmed	Denial of motion to suppress; Search warrant affidavit Zachary Starcher appealed the denial of his motion to suppress evidence obtained from a search of a Black LG cell phone that his wife, M.J., provided to law enforcement after discovering videos depicting her drugged and sexually assaulted by Starcher. Police obtained a search warrant incorporating an affidavit detailing M.J.'s discovery, and the subsequent search revealed incriminating videos, leading to Starcher's indictment on multiple counts including rape and sexually oriented offenses involving an impaired person. Starcher argued the warrant lacked sufficient particularity because it contained no temporal limits and improperly relied on incorporation of the affidavit. Applying a mixed standard of review, the appellate court rejected these arguments, holding that the warrant—read together with the incorporated affidavit—adequately described the place to be searched and the items to be seized, satisfied Fourth Amendment particularity requirements, and was as specific as the circumstances permitted given the victim's inability to identify precise dates. The court therefore affirmed the trial court's denial of the motion to suppress and upheld Starcher's convictions and eight-year aggregate sentence.	Baldwin	1/5/2026
Lewis v. Fisher	25AP0001	Appeal from the Common Pleas Court of Morgan County , Case No. 24CV0144	Affirmed	After a county sheriff, in accordance with R.C. 2923.125, denied an applicant's request for a concealed-handgun license because the sheriff found that the applicant had a disqualifying felony conviction on his criminal record, the trial court, in an administrative appeal from that decision, agreed with the sheriff. The trial court's decision was not an abuse of discretion and is affirmed. Appellant Dale M. Lewis appealed the trial court's judgment affirming the sheriff's denial of his application for a concealed-handgun license, but the appellate court found no error and affirmed. Although Lewis had previously obtained relief from firearm disabilities related to two drug convictions, the sheriff denied his 2024 license application after a criminal-records check revealed an unrelieved 1980 Florida felony conviction for unemployment-compensation fraud, which independently barred firearm possession under Ohio and federal law. The court rejected Lewis's arguments that the sheriff was required to create an alternative appeals process or that the denial was unlawful, noting that R.C. 2923.125 provides a statutory administrative appeal and a separate BCI process for challenging criminal records, neither of which obligates the sheriff to offer additional procedures. The court also held that any failure by the sheriff to transmit a formal record did not prejudice Lewis, as no hearing was required or held and the relevant documents were before the court. Finally, the court concluded that Lewis was not entitled to declaratory, injunctive, or mandamus relief, default judgment, or attorney's fees because he lacked a clear legal right to the relief sought, and it affirmed the judgment of the Morgan County Court of Common Pleas.	Gormley	1/6/2026
State v. Mumaw	2025-CA-00048	Appeal from the Licking County Municipal Court, Case No. 24CRB01692	Affirmed	Misdemeanor Domestic Violence Appellant Gage Mumaw appealed his misdemeanor domestic-violence conviction from the Licking County Municipal Court, arguing that the jury's verdict was against the manifest weight of the evidence. The charge stemmed from a December 11, 2024 incident in which Mumaw shoved his live-in girlfriend, K.M., in a closet during an argument, causing her to fall into a plastic tub, strike her head on a shelf, and scrape her arm. At trial, K.M. testified consistently about the shove and resulting injuries, while Mumaw admitted pushing her but claimed he did so only to create distance after she struck him. The jury found Mumaw guilty, and he was sentenced to 30 days in jail. On appeal, the court first held the case was not moot because Mumaw contested the charge, sought a stay of execution, and maintained a substantial interest in appellate review despite completing his sentence. On the merits, the appellate court concluded that the jury did not lose its way, that K.M.'s testimony was internally consistent and corroborated in part by Mumaw's own admissions, and that even minor injuries constitute "physical harm" under Ohio's domestic-violence statute. Accordingly, the court overruled Mumaw's assignment of error and affirmed the conviction.	Popham	1/7/2026
State v. Fidler	2024CA0010	Appeal from the Morrow County Court of Common Pleas, Case No. 2022-CR-0024	Affirmed in part; Reversed and Remanded in part	Admission of evidence of child pornography; Imposition of consecutive sentences Lawrence Fidler appealed his convictions and sentence, challenging the trial court's admission of evidence showing child-pornography searches on his computer and the imposition of consecutive prison terms following a jury verdict finding him guilty of kidnapping and gross sexual imposition of A.F. and rape and sexual battery of M.F., his young daughters. The appellate court held that the trial court did not abuse its discretion in admitting the computer-search evidence under Evid.R. 404(B) and 403(A) because Fidler placed his intent at issue by claiming his conduct was disciplinary rather than sexual, and the evidence was highly probative of intent and accompanied by a proper limiting instruction. However, although the trial court expressed reasons for imposing consecutive sentences and incorporated findings into its sentencing entry, the appellate court concluded that the record did not adequately reflect all of the proportionality findings required by R.C. 2929.14(C)(4). Accordingly, the court affirmed the convictions and the admission of evidence but vacated the sentence and remanded the case solely for resentencing in compliance with the statutory requirements for consecutive sentences.	Baldwin	1/7/2026

Case Caption	Case No(s)	Character of Proceeding	Judgment	Topics and Issues	Author	Date of Judgment Entry
State v. Starkey	CT2025-0040	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2024-0149	Affirmed	Suppression and request for continuance Defendant-Appellant Cody Starkey appealed his March 17, 2025 conviction and sentence from the Muskingum County Court of Common Pleas, challenging the denial of his motion to suppress evidence obtained pursuant to a search warrant and the trial court's refusal to grant a continuance to further investigate a confidential informant. The charges stemmed from multiple controlled drug buys conducted at Starkey's residence, which were corroborated by audio and video recordings, visual surveillance, and searches of the informant before and after each transaction, and ultimately led to the execution of a search warrant uncovering large quantities of drugs, firearms, and evidence of trafficking. Starkey argued the warrant affidavit contained material omissions regarding the informant's reliability and that the trial court's discovery rulings deprived him of a fair opportunity to litigate these issues. The appellate court rejected these claims, finding the affidavit established probable cause independent of the informant's later-discovered misconduct, that law enforcement reasonably believed the informant was reliable at the time of the investigation, and that no Franks violation occurred. The court further held the trial court did not abuse its discretion in denying a continuance, noting the case's lengthy pendency, defense counsel's prior knowledge of the informant's identity, and counsel's ability to fully challenge the informant's credibility at the suppression hearing. Accordingly, the appellate court affirmed Starkey's convictions and aggregate sentence of 20 to 25.5 years in prison.	King	1/8/2026
State v. Smith	25CA000013	Appeal from the Guernsey County Court of Common Pleas, Case No. 11CR40	Affirmed	Leave to file motion for new trial Appellant Michael Smith appealed the Guernsey County Court of Common Pleas' April 22, 2025 judgment denying his motion for leave to file a motion for a new trial, filed nearly thirteen years after his convictions for murder, attempted murder, felonious assault, grand theft, and having a weapon under disability, for which he received an aggregate sentence of forty-eight years to life. Smith argued he had been prevented from testifying at trial and from presenting evidence of borderline personality disorder that he claimed could have supported lesser verdicts. The appellate court affirmed, holding that Smith failed to demonstrate by clear and convincing evidence that he was unavoidably prevented from discovering the grounds for his proposed motion as required by Crim.R. 33(B). The court found no legal support for Smith's claim that the trial court was required to advise him of his right to testify, and noted the record showed he had presented mental-health expert testimony at trial, undermining his claim of newly discovered evidence. Concluding that Smith identified no new facts that were unknown or undiscoverable at the time of trial and offered no justification for the lengthy delay, the court held the trial court did not abuse its discretion in denying leave without a hearing and affirmed the judgment.	Popham	1/8/2026