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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. Palmer	26-COA-014	Appeal from the Court of Common Pleas of Ashland County , Case No. 22-CRI-217	Affirmed	The trial court properly denied the defendant's post-conviction petition that raised (1) a speedy-trial claim already resolved on direct appeal, and (2) an ineffective-assistance claim unsupported by the record. The Fifth District Court of Appeals affirmed the denial of Ahmed Palmer's petition for post-conviction relief, rejecting his claims that his constitutional right to a speedy trial was violated and that his trial counsel was ineffective for failing to seek dismissal on speedy-trial grounds. The court held that Palmer's speedy-trial argument was barred by the doctrine of res judicata because it had already been raised and resolved in his direct appeal. Although the court addressed his ineffective-assistance claim on the merits, it found Palmer failed to present any new evidence beyond the existing record to support it. The record showed that much of the 643-day delay between Palmer's arrest and guilty plea resulted from defense continuances, suppression litigation, and competency proceedings initiated by Palmer, all of which tolled the speedy-trial clock under Ohio law. Because Palmer failed to demonstrate that a motion to dismiss on speedy-trial grounds had a reasonable probability of success, the court concluded that his attorney was not ineffective for declining to file one and affirmed the trial court's judgment.	Gormley	7/20/2026
Heffelfinger v. Heffelfinger	25-COA-033	Appeal from the Ashland County Court of Common Pleas, Domestic Relations Division, Case No. 23-DIV037	Affirmed	Divorce: division of farm property, timber, crops, life insurance proceeds The Fifth District Court of Appeals affirmed the Ashland County Domestic Relations Court's divorce decree, rejecting all of Phyllis Heffelfinger's challenges to the property division. The court held that the appreciation in the value of Douglas Heffelfinger's family farm and its merchantable timber remained his separate property because the evidence showed the increase resulted primarily from market forces rather than the parties' labor or financial contributions during the marriage. The court also upheld the finding that nearly \$1 million in life insurance proceeds Douglas received through irrevocable trusts established by his parents were his separate property, concluding he successfully traced those assets to his inheritance. Finally, the court found no error in awarding Phyllis one-half of the net profits from the 2024 crops after deducting production costs, noting that the trial court retained jurisdiction to review the accounting and resolve any disputes over crop-related expenses. Accordingly, the appellate court found no abuse of discretion or manifest error and affirmed the divorce decree in its entirety.	King	7/20/2026
Turner v. Turner	25 CA 040	Appeal from the Fairfield County Court of Common Pleas, Domestic Relations Division, Case No. 2024 DR 00308	Affirmed	Divorce: sale of material home; sale of firearms; marriage termination date; spousal support The Fifth District Court of Appeals affirmed the Fairfield County Domestic Relations Court's divorce decree, rejecting Scott Turner's challenges to the division of property, the termination date of the marriage, and the spousal support award. The court found no abuse of discretion in ordering the sale of the marital residence because neither party presented sufficient evidence that they could refinance the property, remove the other spouse from the mortgage, and pay the other's share of the equity. It also upheld the order requiring the sale of four marital firearms, while allowing Husband to retain an inherited firearm as his separate property. The court declined to adopt an August 2024 de facto termination date, instead using the date of the final divorce hearing, finding Husband failed to demonstrate that an earlier date was more equitable. Finally, the court upheld the award of nominal spousal support of \$5 per month and the trial court's decision to retain jurisdiction over spousal support, concluding that future changes in the parties' financial circumstances following Wife's retirement could justify modification. Accordingly, the appellate court affirmed the divorce decree in all respects.	King	7/20/2026
In re K.J.	2026CA00056	Appeal from the Stark County Court of Common Pleas, Family Court Division, Case No. 2024JC01117	Affirmed	Permanent custody; Failure to timely appeal temporary custody; Waiver of counsel; Manifest weight; Civ.R. 60(B) The Fifth District Court of Appeals affirmed the Stark County Juvenile Court's decision granting permanent custody of K.J. to the Stark County Department of Job and Family Services, rejecting all five assignments of error raised by Father. The court held that Father's challenges to the initial dependency adjudication and temporary custody order were barred by res judicata because he failed to timely appeal those final orders. It also found no violation of Father's right to counsel, noting that he repeatedly requested the removal of appointed attorneys, ultimately chose to represent himself, and failed to provide a transcript demonstrating any error. The court further concluded that clear and convincing evidence supported the permanent custody award, as Father made only minimal progress on his case plan, failed to verify treatment, employment, or housing after moving to Chicago, remained subject to active arrest warrants, and could not obtain approval for placement of the child. Although the court acknowledged the bond between Father and the child, it determined that the child's need for a legally secure and permanent placement, where she was thriving with her sibling in foster care, outweighed maintaining that relationship. Finally, the court held that Father's Civ.R. 60(B) motions improperly attempted to relitigate issues that should have been raised on direct appeal and affirmed the trial court's denial of those motions without a hearing.	Montgomery	7/20/2026



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State v. Galloway	25-COA-017	Appeal from the Ashland County Court of Common Pleas, Case No. 23-CRI-007	Affirmed	Suppression and Manifest weight The Fifth District Court of Appeals affirmed Walter Galloway's convictions and sentence for first-degree felony trafficking and possession of fentanyl, rejecting his challenges to the denial of his motion to suppress and the weight of the evidence. The court found that Galloway voluntarily consented to a search of his hotel room after repeatedly asking officers to retrieve money he had left behind, and concluded that he had the capacity to give consent despite his medical condition. The court further held that, because Galloway's hotel rental period had expired before the search, he no longer had a reasonable expectation of privacy in the room and therefore lacked standing to challenge the search. The court also determined that the convictions were supported by the manifest weight of the evidence, noting that fentanyl was found on Galloway's person and in his hotel room, Galloway admitted the drugs belonged to him and that he was selling them after stealing them from his dealer, and text messages corroborated his involvement in drug trafficking. Finding no constitutional violation or evidentiary error, the appellate court affirmed Galloway's conviction and sentence of 11 to 16½ years in prison.	King	7/20/2026
State v. Hollenback	CT2026-0014	Appeal from the Court of Common Pleas of Muskingum County , Case No. CR2025-0366	Affirmed	No double-jeopardy violation occurred where (1) a trial judge orally announced a criminal defendant's sentence at a sentencing hearing, (2) no entry documenting that sentence was ever filed, and (3) the trial judge held a second sentencing hearing weeks later, imposed a harsher sentence, and filed an entry reflecting that harsher sentence. A sentence is not final until it is journalized, so the defendant had no legitimate expectation of finality in the initial sentence announced by the judge. The Fifth District Court of Appeals affirmed Charles Hollenback's sentence for multiple felony sex offenses, rejecting his arguments that the trial court improperly increased his sentence after initially announcing a shorter prison term and failed to make the findings necessary to impose consecutive sentences. The court held that because the original sentence announced in open court was never journalized, it was not a final judgment, allowing the trial judge to reconvene the sentencing hearing and impose a longer aggregate sentence of life imprisonment with parole eligibility after 55½ years without violating double jeopardy principles. Although the appellate court cautioned that changing a sentence after announcing it in court is not an ideal practice, it found the procedure was legally permissible under the circumstances. The court also concluded that the trial judge made all of the statutory findings required by R.C. 2929.14(C)(4) to support consecutive sentences, both during the sentencing hearing and in the written judgment entry, emphasizing Hollenback's repeated sexual abuse of multiple children, the serious harm caused to the victims, his likelihood of reoffending, and the need to protect the public. Accordingly, the appellate court affirmed the trial court's judgment.	Gormley	7/20/2026
In re D.J.	2026CA00055	Appeal from the Stark County Court of Common Pleas, Family Court Division, Case No.2024JCV01116	Affirmed	Permanent custody; Failure to timely appeal temporary custody; Waiver of counsel; Manifest weight; Civ.R. 60(B) The Fifth District Court of Appeals affirmed the Stark County Family Court's decision granting permanent custody of D.J. to the Stark County Department of Job and Family Services, rejecting all five assignments of error raised by Father. The court held that Father's challenges to the child's dependency adjudication and temporary custody order were barred by res judicata because he failed to timely appeal those final orders, and further noted that dependency determinations focus on the child's condition rather than parental fault. The court also found no violation of Father's right to counsel, observing that he repeatedly sought to discharge appointed attorneys, elected to represent himself, and failed to provide a transcript demonstrating any error. The appellate court concluded that clear and convincing evidence supported the permanent custody award, as Father made only minimal progress on his case plan, moved to Chicago without documenting treatment, employment, or housing, remained subject to active arrest warrants, and could not obtain approval for placement of the child through the Interstate Compact process. Although the court recognized the bond between Father and the child, it found that the child's special needs, including autism, speech delays, and behavioral challenges, along with his success in foster care and need for a stable, permanent home, outweighed maintaining the parental relationship. Finally, the court held that Father's repeated Civ.R. 60(B) motions were improper attempts to relitigate issues that should have been raised on direct appeal and affirmed the trial court's denial of those motions without a hearing.	Montgomery	7/20/2026
State v. Avery	25CA00096	Appeal from the Court of Common Pleas of Licking County , Case No. 2025CR00474	Affirmed	The trial court properly imposed maximum consecutive 12-month prison terms on a defendant who pled guilty to two fifth-degree-felony drug-related charges. Sarah Avery appealed the maximum consecutive prison sentences she received after pleading guilty to two fifth-degree felony aggravated drug possession charges, arguing the trial court failed to properly consider Ohio's felony sentencing factors. The Fifth District Court of Appeals affirmed the sentence, noting that Avery failed to object at sentencing, limiting appellate review to plain error. The court found the 12-month sentences for each offense were within the statutory range and that, although the trial judge did not expressly cite Ohio's sentencing statutes, the record demonstrated consideration of the relevant factors, including Avery's repeated drug offenses, bond violation through alcohol use, failure to participate in treatment, prior criminal history, and unstable housing. Because the trial court properly exercised its sentencing discretion and the sentence was not contrary to law, the appellate court upheld Avery's aggregate 24-month prison sentence.	Gormley	7/20/2026



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In re Z.J.	2026CA00057	Appeal from the Stark County Court of Common Pleas, Family Court Division, Case No.2024JCV01118	Dismissed	Permanent custody; Standing The Fifth District Court of Appeals dismissed D.J.'s appeal challenging the award of permanent custody of Z.J. to the Stark County Department of Job and Family Services, holding that he lacked standing to appeal. Although D.J. initially was believed to be Z.J.'s biological father, genetic testing later established that another man was the child's biological father, and D.J. was dismissed from the case before the agency filed its motion for permanent custody. Because D.J. was no longer a party to the proceedings and never filed a motion seeking legal custody of Z.J., he had no legal standing to challenge the permanent custody decision. As a result, the appellate court concluded it lacked jurisdiction and dismissed the appeal without addressing the merits of his assignments of error.	Montgomery	7/20/2026
State v. Davis	2026CA00038	Appeal from the Stark County Court of Common Pleas, Case No. 2025-CR-1750	Affirmed	Motion to withdraw plea; petition for postconviction relief; motion to stay proceedings; all properly denied. The Fifth District Court of Appeals affirmed the Stark County Common Pleas Court's denial of Joseph Allen Davis's post-sentence motion to withdraw his guilty plea, petition for postconviction relief, and motion to stay proceedings. Davis, who pleaded guilty to having weapons while under disability after a traffic stop led to the discovery of a loaded firearm, argued his plea was coerced, his counsel was ineffective for failing to challenge the traffic stop and seek suppression of the evidence, the prosecution was retaliatory, and the stop lacked probable cause because the underlying traffic charge was later dismissed. The appellate court held that Davis failed to present affidavits or other evidentiary-quality materials demonstrating a manifest injustice or constitutional violation, making an evidentiary hearing unnecessary. The court further found that his claims were barred by res judicata because they could have been raised on direct appeal, which Davis did not pursue. Accordingly, the trial court did not abuse its discretion in denying all requested relief, and the judgment was affirmed.	King	7/20/2026
State v. Rouse	CT2025-0130	Appeal from the Court of Common Pleas of Muskingum County , Case No. CR2025-0485	Affirmed	The trial court did not err by ordering a criminal defendant, in accordance with R.C. 2947.23(A)(1)(a), to pay the court costs in his case, and those costs can be imposed even on an indigent defendant. The Fifth District Court of Appeals affirmed the Muskingum County Court of Common Pleas' order requiring Ronald Rouse to pay court costs following his guilty plea to fifth-degree felony aggravated possession of drugs. Rouse argued that imposing costs was improper because he was indigent, had recently completed an 18-year prison sentence, was returned to prison for the new offense, and lacked the ability to pay. The appellate court held that because Rouse did not object to the costs at sentencing, the issue was reviewed only for plain error and found none. The court explained that Ohio law requires trial courts to impose prosecution costs on all convicted defendants, including those who are indigent, and that while courts have discretion to later waive, suspend, or modify those costs, they are not required to consider a defendant's ability to pay when initially imposing them. The court further noted that Rouse remains free to ask the trial court at any time to waive, suspend, or modify his court-cost obligation under R.C. 2947.23(C).	Gormley	7/21/2026
State v. Addy	2025CA0016	Appeal from the Court of Common Pleas of Coshocton County , Case No. 2024CR0106	Affirmed	A criminal defendant who was under post-release-control supervision and failed to report to his supervising officer for seven days was properly convicted on a felony escape charge. The Fifth District Court of Appeals affirmed Traivis Addy's conviction for fifth-degree felony escape, rejecting all eight assignments of error. The court found sufficient evidence that Addy purposely violated the terms of his post-release control by refusing to report to his parole officer after being ordered to do so, stating he would not appear until he obtained an attorney, refusing to disclose his location, and remaining absent for seven days before surrendering. It also held that the conviction was supported by the manifest weight of the evidence. The court rejected Addy's claims that the jury pool violated his constitutional right to a fair cross-section of the community, finding no evidence of systematic exclusion of African Americans, and found no support for his selective prosecution claim because he failed to establish that a similarly situated individual was treated differently due to race. The court further concluded that the State's delayed disclosure of the parole officer's notes did not constitute a prejudicial discovery violation or a Brady violation, as the notes were produced during trial, were not materially different from previously disclosed reports, and caused no prejudice. Finally, the court determined that the admission of an edited document showing Addy's post-release control status was not unfairly prejudicial and that, because no individual errors occurred, his cumulative-error argument also failed. As a result, the judgment of the Coshocton County Court of Common Pleas was affirmed.	Gormley	7/21/2026



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State v. Williams	2025 CA 0113	Appeal from the Richland County Court of Common Pleas, Case No.2022CR0598N	Affirmed	Jail time credit The Fifth District Court of Appeals affirmed the Richland County Common Pleas Court's judgment, holding that DeVall Williams failed to demonstrate any error in the trial court's award of seven days of jail-time credit after his community control was revoked. Williams argued he was entitled to additional credit, but the appellate court found he did not identify any specific miscalculation or establish how the trial court's determination was incorrect. The court explained that jail-time credit applies only to confinement arising from the offense for which the defendant is being sentenced and does not include time served on unrelated charges. Because much of Williams's incarceration resulted from separate felony convictions in Marion County, he was not entitled to additional credit in this case, and the trial court's judgment was affirmed.	Baldwin	7/23/2026
Roush v. Blazek	2025CA0019	Appeal from the Coshocton County Court of Common Pleas, Case No. 2020 CI 0266	Affirmed	Legal malpractice; Inconsistent interrogatories; Order of interrogatories; Admission of evidence; Law of the case; Jury instructions; Serious emotional distress The Fifth District Court of Appeals affirmed the judgment entered in favor of attorney James Blazek following a jury verdict rejecting Frances Roush's legal malpractice claim arising from his representation in her lawsuit over a bat-infested home she purchased. Although the jury found that the real estate defendants had committed fraud, it also found that the fraud did not proximately cause Roush any damages, resulting in a verdict for Blazek because she could not establish she would have recovered in the underlying case. On appeal, Roush argued the verdict and interrogatories were inconsistent, that defense expert testimony violated the law of the case, that the jury instructions improperly prevented consideration of alternative malpractice theories, and that the trial court should have instructed the jury on emotional distress damages. The appellate court rejected each argument, holding that Roush failed to preserve several issues for review, no plain error or abuse of discretion occurred, and the trial court properly entered judgment on the jury's verdict.	Montgomery	7/23/2026
State v. Moore	25 CAC 10 0093	Appeal from the Delaware Municipal Court of Delaware County , Case No. 25CRB00718	Affirmed	Competency to stand trial; R.C. 2945.37; Gross sexual imposition; Presumption of competency; Competency evaluation; Motion to continue The Fifth District Court of Appeals affirmed the conviction of Daniel Moore for sexual imposition, a third-degree misdemeanor, following an incident in a hospital emergency department where Moore inappropriately touched a staff member. The court reviewed two main issues on appeal: whether the trial court erred in denying a continuance after late disclosure of hospital video evidence, and whether the court failed to properly address Moore's competency to stand trial. The court found that the defense was already aware of the critical facts through earlier-disclosed body camera footage and had sufficient time to review the hospital video, so denying the continuance was not prejudicial. Regarding competency, the court determined that Moore had previously been found competent after evaluation, and his failure to take medication on the day of trial did not undermine this finding, as he demonstrated understanding of the proceedings. Both assignments of error were overruled, and the conviction was upheld.	Montgomery	7/23/2026
State v. Arrington	2025CA00092 2025CA00093	Appeal from the Stark County Court of Common Pleas, Case No. 2025-CR-0392	Vacated and Remanded	Record did not affirmatively demonstrate the trial court considered the youth - mitigating factors required by R.C. 2929.19(B)(1)(b) The Fifth District Court of Appeals reversed the sentence imposed on Elijah Arrington and remanded the case for resentencing after finding the trial court failed to comply with R.C. 2929.19(B)(1)(b), which requires courts to consider youth and its attendant characteristics as mitigating factors before sentencing an offender who committed an offense while under the age of 18. Arrington, who was 17 when he assaulted a corrections officer at the Ohio Department of Youth Services and was later transferred to adult court, pleaded guilty to felonious assault and received an indefinite prison sentence of seven to ten and one-half years. Although the trial court considered the general felony sentencing factors under R.C. 2929.11 and 2929.12, the appellate court found the record did not affirmatively demonstrate that it considered the mandatory statutory youth-related mitigating factors, rendering the sentence contrary to law. Because the sentence was vacated and the case remanded for resentencing, the court found Arrington's ineffective assistance of counsel claim regarding the presentation of mitigating evidence to be moot.	Hoffman	7/23/2026



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Cetorelli v. Duell Action Builders, L.L.C.	2025CA00130	Appeal from the Stark County Court of Common Pleas, Case No. 2023CV00791	Affirmed	Consumer Sales Practices Act; Treble damages; R.C. 1345.09(B); Home Solicitation Sales Act; Attorney fees The Fifth District Court of Appeals affirmed a trial court judgment in favor of Angela Cetorelli against Duell Action Builders LLC and its owner, Karl Jay Duell IV, in a home renovation and roofing contract dispute. Cetorelli hired Duell Action Builders for roof and gutter work, but the company failed to perform the work in a workmanlike manner, did not provide required cancellation notices, and unilaterally removed a promised five-year warranty from the contract without informing Cetorelli. The court found multiple violations of the Ohio Consumer Sales Practices Act (CSPA) and the Home Sales Solicitation Act (HSSA), including deceptive trade practices and failure to disclose the use of subcontractors. Expert testimony established that the roof installation was defective and required full replacement. The trial court awarded Cetorelli treble damages, attorney fees, and costs totaling \$123,218.50. On appeal, the court rejected all arguments from Duell Action Builders, holding that remedies under the CSPA and HSSA are not mutually exclusive, that treble damages and attorney fees were properly awarded, and that Duell could be held personally liable for his direct actions. The judgment was affirmed in all respects.	Montgomery	7/23/2026
State v. Cox	2025 CA 0012	Appeal from the Morrow County Court of Common Pleas, Case No. 2024-CR-0085	Affirmed	Manifest weight; Sufficiency The Fifth District Court of Appeals affirmed Adam Cox's conviction for tampering with evidence after he attempted to use a concealed Whizzinator device containing clean urine to defeat a court-ordered drug test while on pretrial release. Cox argued that the State failed to prove an official proceeding or investigation existed and that the evidence was insufficient to support his conviction. The appellate court rejected those arguments, holding that the court's monitoring of Cox's compliance with the conditions of his pretrial release constituted an official proceeding and that the Whizzinator was intended to conceal evidence of a potential bond violation. The court found that the circumstantial evidence—including Cox's possession of the device during a mandatory drug screening—was sufficient to establish the elements of tampering with evidence and supported the trial court's verdict. Although Cox's possession-of-criminal-tools charge had merged with the tampering offense for sentencing, the court noted there was no final conviction on that count to review. A concurring judge agreed with the outcome but reasoned that the underlying receiving stolen property case itself, including its bail conditions, constituted the relevant official proceeding.	King	7/23/2026
State v. Rager	25-CA-043	Appeal from the Fairfield County Municipal Court, TRC25 04168	Affirmed	OVI, Suppression, Reasonable suspicion, Probable cause The Fifth District Court of Appeals affirmed Hayden Rager's OVI conviction, finding that the Ohio State Highway Patrol trooper had reasonable suspicion to expand a traffic stop into an OVI investigation and probable cause to arrest him. Rager, who was stopped for speeding, a marked-lanes violation, and failing to stop at a stop bar, was found driving with several underage passengers and numerous open and sealed alcoholic beverage containers in the vehicle. The trooper observed the odor of alcohol, Rager's bloodshot and glassy eyes, and two clues on the walk-and-turn field sobriety test before arresting him; a subsequent breath test registered a blood-alcohol concentration of .095, well above the legal limit for drivers under 21. On appeal, Rager argued the stop was improperly extended, the walk-and-turn test was not administered in substantial compliance with National Highway Traffic Safety Administration (NHTSA) standards, and there was no probable cause for his arrest. The appellate court rejected all three arguments, concluding that the totality of the circumstances justified the expanded investigation and arrest, and that the trooper substantially complied with NHTSA standards when administering the field sobriety test. As a result, the court upheld the denial of Rager's motion to suppress and affirmed his conviction.	King	7/23/2026