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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
Wagner v. Athletico, Ltd.	2025 CA 00054	Appeal from the Licking County Court of Common Pleas, Case No. 22 CV 01138	Reversed and Remanded	Premises liability; Directed verdict Athletico appealed a jury verdict awarding Jon and Lynda Wagner \$110,000 after Jon Wagner was injured when a resistance-band board detached from a wall during physical therapy. Although the case proceeded to trial and the jury found Athletico negligent—relying in part on the doctrine of res ipsa loquitur—the appellate court held that the trial court erred in denying Athletico’s motion for a directed verdict. The court found no evidence that Athletico had actual or constructive notice of any defect, which is required to establish a duty in a premises-liability claim. It further ruled that res ipsa loquitur did not apply because an alternative cause of the accident—improper installation by an outside contractor—was presented, meaning negligence could not be inferred solely against Athletico. As a result, the appellate court reversed the judgment and remanded the case for entry of a directed verdict in Athletico’s favor, rendering the remaining assignments of error moot.	Baldwin	3/16/2026
State v. Greywolf	25CA000004	Appeal from the Knox County Court of Common Pleas, Case No. 23CR07-0154	Affirmed	Manifest Weight/Sufficiency of Evidence - Expert Medical Testimony not Necessary to Establish Rape - Plain Error Michael S. Greywolf appealed his convictions and consecutive sentences—totaling a minimum of 45 years to life—for two counts of rape involving a minor, arguing insufficient evidence and improper expert testimony vouching for the victim’s credibility. The appellate court affirmed, finding the victim’s detailed and consistent testimony, corroborated by her prior disclosures, text messages, and supporting witness testimony, was sufficient and not against the manifest weight of the evidence, even without physical proof. The court also rejected Greywolf’s challenge to the expert’s statements about the victim’s truthfulness, concluding there was no plain error affecting the outcome given the overwhelming evidence of guilt, and noting that some of the challenged testimony was elicited by the defense itself. Accordingly, the convictions and sentence were upheld.	Hoffman	3/16/2026
Chervenak Family Trust v. Ascent Resources - Utica, L.L.C.	25CA00033	Appeal from the Guernsey County Court of Common Pleas, Case No. 25-OG-000052	Affirmed	Oil and Gas Lease - Breach of Contract - Summary Judgment - Voluntary Unitization - Statutory Unitization - R.C. 1509.28 The Chervenak Family Trust appealed the trial court’s grant of summary judgment in favor of Ascent Resources–Utica, LLC, which dismissed its claims for breach of contract and declaratory judgment regarding an oil and gas lease. The Trust argued that the lease limited unitization to 160 acres and prohibited inclusion of its property in larger statutory drilling units approved under Ohio law. The appellate court affirmed, holding that the lease language merely permitted voluntary unitization up to 160 acres but did not prohibit statutory unitization under R.C. 1509.28. Because the lease was silent on statutory unitization and did not expressly restrict it, Ascent’s inclusion of the property in larger units authorized by the state did not constitute a breach of contract. Accordingly, the trial court properly granted summary judgment to Ascent and dismissed all claims.	Hoffman	3/16/2026
State ex rel. Stacey v. Owens	2026 CA 0001	Original action in Mandamus and Procedendo Richland County	Dismissed	Writ of mandamus and procedendo Relator Alix Stacey filed a petition for writs of mandamus and procedendo seeking to compel Judge Beth Owens to rule within 24–48 hours on several alleged emergency motions related to visitation and custody. The court granted Judge Owens’s motion to dismiss, finding Stacey was not entitled to extraordinary relief. The petition was deemed largely moot because the trial court had already ruled on the emergency motions filed on December 26, 2025, and January 5, 2026, and no exception to the mootness doctrine applied, particularly in light of a civil protection order that eliminated the likelihood of the issues recurring. As to the remaining custody motion filed December 29, 2025, the court held relief was unwarranted because it had been pending for less than 120 days, which is within the permissible time frame for a ruling under court rules. Accordingly, the court dismissed Stacey’s petition for failure to state a claim.	Montgomery	3/18/2026
In re E.A.	2025CA00141	Appeal from the Stark County Court of Common Pleas, Family Court Division, Case No. 2024JC00572	Affirmed	Permanant Custody - UCCJEA - Subject Matter Jurisdiction - Reasonable Efforts to Reunify - Best Interest of the Child Appellant Mother challenged the trial court’s decision granting permanent custody of her child, E.A., to the Stark County Department of Job and Family Services, but the appellate court affirmed the judgment. The court found Ohio properly exercised jurisdiction under the UCCJEA because the child was present in Ohio and faced potential harm due to Mother’s mental health issues, instability, and failure to provide basic care. The court also held the Agency made reasonable efforts to reunify the family through a case plan requiring evaluations, treatment, and drug testing, which Mother largely failed to complete, including after relocating to New Hampshire. Finally, the court determined that granting permanent custody was in the child’s best interest, supported by clear and convincing evidence, noting Mother’s abandonment, lack of treatment for mental illness, failure to visit, and the child’s stability and positive placement with a relative who wished to adopt. Accordingly, all assignments of error were overruled and the trial court’s decision was affirmed.	Hoffman	3/18/2026

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State v. Lewis	25CA023	Appeal from the Fairfield County Municipal Court, Case No. CRB2401647	Affirmed	Prosecutor did not engage in misconduct when questioning witnesses or vouch for witnesses during closing argument, so defense counsel's failure to object was not ineffective assistance. Jennifer Lewis appealed her misdemeanor theft conviction arising from an incident at a Lancaster Walmart where she scanned only some items at self-checkout but attempted to leave with all of them. She argued prosecutorial misconduct during witness questioning and closing arguments, and claimed ineffective assistance of counsel for failing to object. The appellate court rejected both claims, finding no improper conduct by the prosecutor, as the questioning and closing remarks were based on evidence and did not constitute impermissible vouching or prejudice. Because no misconduct occurred, the court also held counsel was not ineffective for failing to object. Accordingly, the conviction was affirmed.	Gormley	3/18/2026
State v. Parks	25-COA-011	Appeal from the Ashland County Court of Common Pleas, Case No. 24-CRI-157	Affirmed	Not guilty by reason of insanity defense April Parks appealed her conviction for cruelty to a companion animal, arguing the trial court erred in rejecting her Not Guilty by Reason of Insanity (NGRI) defense, but the appellate court affirmed. The evidence showed Parks fatally stabbed her cat after it scratched her and later behaved erratically, though she initially concealed her actions and admitted she killed the cat out of anger. While a defense expert testified Parks suffered from a severe mental illness and may not have understood the wrongfulness of her actions, the expert also acknowledged reasonable minds could disagree. The trial court weighed this testimony against other evidence, including Parks's statements and demeanor, and concluded she failed to prove by a preponderance of the evidence that she did not understand her actions were wrong. The appellate court found this determination was supported by the record and not against the manifest weight of the evidence, and therefore upheld the conviction.	Montgomery	3/18/2026