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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
Laudato v. Newark Leasing, L.L.C.	25CA0046	Appeal from the Court of Common Pleas of Licking County , Case No. 21CV00827	Affirmed	Trial court did not abuse its discretion by denying plaintiff's pretrial motion to amend the negligence and wrongful-death allegations in a complaint where the proposed amendments, nearly five years after the decedent's death, would have shifted the theory of liability and alleged a different cause of death. In this negligence and wrongful-death case, the appellate court affirmed the trial court's rulings in favor of Newark Leasing, operator of a nursing facility where Hallie Withem resided before her death from septic shock. Initially, the estate alleged that the facility failed to detect and treat a urinary-tract infection, but after the original expert became unavailable, a new expert advanced a different theory—that improper blood-sugar management caused her death. The trial court denied a late request to amend the complaint to reflect this new theory, finding it would unfairly prejudice the defendant after years of litigation focused on a different claim. The court also denied a last-minute continuance request despite the plaintiff's illness, citing prior delays and lack of justification for further postponement. Because the plaintiff ultimately lacked expert testimony supporting the original infection-based allegations, the trial court properly granted a directed verdict for Newark Leasing, and the appellate court concluded there was no abuse of discretion or legal error in any of these decisions.	Gormley	3/20/2026
C.V. v. Ullom	2025 CA 00060	Appeal from the Licking County Court of Common Pleas, Case No. 23CV001276	Affirmed	Civil Stalking Protection Order The appellate court affirmed the Licking County Court of Common Pleas' decision granting a civil stalking protection order (CSPO) against Gary Ullom, finding sufficient and credible evidence that he engaged in a pattern of conduct causing his neighbor C.V. and his family to fear physical harm or experience mental distress. The record showed years of escalating behavior, including firearm incidents, aggressive outbursts, threatening communications, and a November 2023 incident in which Ullom expressed a desire to harm neighbors and commit "suicide by cop," prompting police involvement. The court rejected Ullom's arguments regarding insufficient evidence, improper legal standards, and manifest weight, emphasizing that a victim's belief of potential harm is enough under Ohio law. It also found no error in the admission of evidence, noting the case was tried to the bench and that any hearsay issues were harmless or properly admitted. Additionally, the court held that consolidating related cases and granting a continuance to allow subpoenaed witnesses were within the trial court's discretion. Accordingly, all assignments of error were overruled, and the CSPO was upheld.	King	3/20/2026
Estate of Szabrak v. Ley	2025 CA 0080	Appeal from the Richland County Court of Common Pleas, Case No. 2024 CV 394N	Affirmed	Fraudulent Inducement, Resulting Trust, Partition The appellate court affirmed the Richland County Court of Common Pleas' decision granting summary judgment to Carolyn Ley and Michael Vogel and striking certain evidence. The dispute arose after Lawrence Szabrak conveyed a one-half interest in his home to Ley in 2013, allegedly based on an understanding she would ultimately pass her interest to his children, but Ley later executed a 2015 transfer-on-death affidavit naming her son as beneficiary. The court held that the plaintiffs' fraudulent inducement claim was barred by the four-year statute of limitations because they had constructive notice of the 2015 affidavit when it was recorded, and their complaint failed to establish any continuing fraud or properly plead fraud beyond that time. Because the fraud claim failed, related equitable remedies such as constructive and resulting trusts were also barred. The partition claim was properly dismissed as moot and legally unsupported because the property had already been sold to a third party, extinguishing any co-tenancy interest. Additionally, the trial court did not abuse its discretion in striking unsworn recorded statements of the decedent, as they were inadmissible under Civil Rule 56, and any error would have been harmless. Accordingly, all assignments of error were overruled and the judgment was affirmed.	Popham	3/23/2026
State v. Jones	2025 CA 00021	Appeal from the Guernsey County Court of Common Pleas, Case No. 24-CR-166	Affirmed	Sentencing - Consecutive Sentences The appellate court affirmed Sherman E. Jones's convictions and aggregate sentence of fourteen to eighteen years for aggravated possession and trafficking in drugs following his no contest pleas. The case arose after a traffic stop revealed over 105 grams of methamphetamine, and further evidence of drug trafficking was found at his residence; Jones admitted ownership and involvement in drug sales. On appeal, Jones argued his sentence was excessive and that the trial court failed to properly consider mitigating factors and improperly imposed consecutive sentences. The court rejected these arguments, finding the trial court appropriately considered the purposes and factors of felony sentencing under Ohio law, imposed a sentence within the statutory range, and was not required to reweigh mitigating evidence. It also held the trial court made the necessary findings to support consecutive sentences and that the record—including Jones's prior criminal history and repeated drug offenses—supported those findings despite his health issues and treatment efforts. Accordingly, the appellate court overruled both assignments of error and upheld the trial court's judgment.	Hoffman	3/23/2026

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State v. Rugg	CT2025-0096	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2024-0790	Vacated and Remanded	At the time community control is imposed, the trial court must advise the defendant that it reserves the authority to impose consecutive sentences upon any violation of the terms of community control. Defendant-Appellant Jordan Rugg appealed the revocation of his community control and the imposition of consecutive prison sentences after admitting to violations of his supervision. Although the trial court had originally warned Rugg of specific potential prison terms for each offense, it did not notify him that those terms could be imposed consecutively if he violated community control. Rugg argued this omission made his sentence unlawful, relying on controlling Ohio Supreme Court precedent requiring such notice. The State conceded error, and the appellate court agreed, finding that under Ohio law a trial court must inform an offender at the time community control is imposed that consecutive sentences are a possible sanction upon revocation. Because no such advisement was given, the trial court lacked authority to impose consecutive sentences. Accordingly, the appellate court sustained Rugg's assignment of error, vacated the consecutive sentences, and remanded the case for resentencing consistent with the law.	Popham	3/24/2026
T.D. v. Ullom	2025-CA-00061	Appeal from the Licking County Court of Common Pleas, Case No. 23CV001277	Affirmed	Civil stalking protection order Respondent-Appellant Gary Ullom appealed the trial court's issuance of a civil stalking protection order (CSPO) in favor of his neighbor T.D. and her family, arguing insufficient evidence, evidentiary errors, improper consolidation, and abuse of discretion in granting a continuance. The appellate court rejected all claims and affirmed the order, finding that Ullom engaged in a pattern of conduct—including threatening behavior, attempting to strike T.D. with a tractor, making alarming statements about harming neighbors, and prior hostile incidents—that supported a finding of menacing by stalking. The court held that competent, credible evidence showed T.D. reasonably feared physical harm or mental distress, satisfying the statutory requirements. It also determined that any alleged hearsay was either admissible, harmless, or properly disregarded in a bench trial, and that the trial court acted within its discretion in consolidating related cases and granting a continuance to allow subpoena reissuance. Accordingly, the CSPO was upheld in full.	King	3/24/2026
State v. Netherly	25 CA A 09 0074	Appeal from the Court of Common Pleas of Delaware County , Case No. 25 CR 1 03 0197	Affirmed	No abuse of discretion occurred when the trial court denied a criminal defendant's pre-sentence motion to withdraw a guilty plea. Defendant Ira Netherly appealed the denial of his presentence motion to withdraw his Alford plea to a reduced charge of abduction, arguing he should have been allowed to proceed to trial. The appellate court affirmed, finding no abuse of discretion by the trial court. Although presentence plea-withdrawal motions should be liberally granted, they are not automatic, and the trial court properly conducted a hearing and applied the relevant factors. Netherly admitted he had competent counsel, understood the plea, and received a full hearing, but offered no new justification for withdrawal beyond his claim of innocence—a position already considered when he entered the Alford plea. The court determined his request was merely a change of heart and noted potential prejudice to the State, including trial preparation already underway and concerns he attempted to influence the victim's availability. Because the factors weighed against withdrawal and no reasonable basis was shown, the trial court's decision was upheld.	Gormley	3/24/2026
State v. Lockhart	25 CAA 07 0057	Appeal from the Delaware County Court of Common Pleas, Case No. 06 CRI 01 0011	Affirmed	Crim.R. 33; Motion for new trial Defendant-Appellant John Lockhart, Jr. appealed the denial of his motion for a new trial, filed more than 18 years after his convictions for rape and gross sexual imposition, alleging witness tampering and ineffective assistance of counsel. The appellate court affirmed the trial court's decision, finding the motion was untimely under Crim.R. 33 and that Lockhart failed to demonstrate he was unavoidably prevented from discovering the evidence supporting his claims. Additionally, he did not seek leave of court to file the delayed motion, as required. The court noted that all of Lockhart's arguments were based on information available at the time of trial and could have been raised on direct appeal. Because he failed to comply with procedural requirements and showed no basis for relief, the trial court did not abuse its discretion in denying the motion for a new trial.	King	3/24/2026
Fox v. Schwartz & Dompier	2025 CA 00024	Appeal from the Fairfield County Court of Common Pleas, Case No. 20CV 160	Affirmed in part; Reversed and Remanded in part	Contract - Bona Fide Purchasers for Value - Erroneous Factual Finding by Trial Court - Tortious Interference with Contract - Manifest Weight of the Evidence The Fairfield County Common Pleas Court found that an enforceable contract existed between David Fox and the Schwartz family for the sale of a 44-acre parcel and granted Fox declaratory relief allowing certain uses of neighboring property owned by Ashlie and Ryan Dompier, while rejecting Fox's claim that the Dompier's tortiously interfered with the contract. On appeal, the Dompier's challenged the trial court's determination that they were not bona fide purchasers for value, and Fox cross-appealed the denial of his tortious interference claim. The appellate court agreed that the trial court relied on an erroneous factual finding—that the Dompier's were present when the initial proposal was signed—and held that this error required remand because the trial court did not properly evaluate other evidence regarding the Dompier's knowledge of Fox's contractual rights. However, the appellate court affirmed the trial court's rejection of Fox's tortious interference claim, finding that the evidence of interference was too speculative and that no damages were proven, especially since the contract was ultimately enforced. Accordingly, the court reversed in part and remanded for further consideration of the Dompier's status as bona fide purchasers, while affirming the judgment in all other respects.	Hoffman	3/25/2026

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State v. Rogers	25-COA-012	Appeal from the Ashland County Court of Common Pleas, Case No. 24-CRI-223	Affirmed	Anders Brief - No Nonfrivolous Issues Following a jury trial, Sir Christion Rogers was convicted of multiple offenses arising from his role as the driver in a planned pharmacy robbery, including complicity to aggravated robbery, robbery, safecracking, theft and tampering with drugs, failure to comply with police orders, and multiple drug possession counts, and was sentenced to an aggregate term of approximately 25 to 30 years in prison. On appeal, his appointed counsel filed a brief under Anders v. California, asserting the appeal was wholly frivolous and seeking to withdraw. After independently reviewing the entire record, the appellate court found that counsel complied with Anders requirements and determined there were no arguable meritorious issues for appeal, concluding that the convictions were supported by sufficient evidence, were not against the manifest weight of the evidence, and that the sentence was lawful and within statutory limits. Accordingly, the court granted counsel's motion to withdraw and affirmed Rogers's convictions and sentence.	Hoffman	3/25/2026
State v. Carder	25CA000022	Appeal from the Knox County Court of Common Pleas, Case No. 2024-CR11-0228	Affirmed	Knowing, Voluntary, Intelligent plea Defendant-appellant Keith W. Carder appealed his conviction and 20-year sentence following guilty pleas to four counts of sexual battery, arguing that his pleas were not entered knowingly, intelligently, and voluntarily because the trial court failed to advise him that a guilty plea is a complete admission of guilt and that sentencing could occur immediately. The appellate court rejected these claims, finding that Carder signed a detailed written plea form and was thoroughly advised of his constitutional rights, the nature of the charges, and potential penalties during the plea hearing. Although the court may not have explicitly stated that a guilty plea constitutes a complete admission of guilt, Carder admitted his conduct on the record and failed to demonstrate any prejudice. Additionally, he was not prejudiced by any omission regarding immediate sentencing because the court ordered a presentence investigation and sentenced him weeks later. Concluding that the trial court substantially complied with Criminal Rule 11 and that Carder's pleas were valid, the appellate court affirmed the judgment.	Popham	3/26/2026
State v. Glenn	CT2025-0093 CT2025-0094	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2025-0373 Case No. CR2025-0416	Affirmed in Part, Reversed in Part	Merger; Allied offenses; Agreed upon sentencing; Weapon under disability; Carrying a concealed weapon; Improper handling of a firearm Defendant-appellant Michael Glenn appealed his aggregate 60-month prison sentence following guilty pleas to escape and multiple firearm-related offenses committed while on post-release control for a prior aggravated robbery conviction. The appellate court rejected Glenn's argument that his firearm offenses should have merged, finding no plain error because each offense involved distinct conduct and elements, and thus were not allied offenses of similar import; moreover, the jointly recommended sentence was authorized by law and generally not subject to review. However, the court agreed with Glenn's claims regarding post-release control, concluding that the trial court erred by failing to specify the exact amount of remaining time to be imposed as a sanction and by improperly imposing that sanction in both cases rather than a single case. Accordingly, the court affirmed the convictions and sentence in part, but reversed in part and remanded for a new sentencing hearing limited to properly imposing the post-release control sanction.	Montgomery	3/26/2026
Allen v. Davis	2025 CA 0048	Appeal from the Richland County Court of Common Pleas, Probate Division, Case No. 20241110A	Affirmed	Transfer on death designation affidavit and undue influence Appellant Darlene Gasparac Davis appealed the probate court's decision invalidating a transfer-on-death (TOD) designation that named her as sole beneficiary of her mother Pauline Gasparac's property, arguing the trial court erred in finding undue influence and lack of capacity. The appellate court affirmed, concluding that competent and credible evidence supported the trial court's findings. The record showed that Davis, as Pauline's sole caregiver, exercised significant control over her, including isolating her from family, creating a confidential relationship that gave rise to a presumption of undue influence. This presumption was reinforced by evidence that Pauline, who suffered from advanced dementia and Alzheimer's disease, was highly susceptible and lacked the mental capacity to understand the TOD at the time she signed it. Medical and hospice records demonstrated severe cognitive impairment, and the circumstances surrounding the execution of the TOD—arranged solely by Davis without prior consultation between Pauline and the attorney—further supported the finding of improper influence. Because the evidence established both undue influence and lack of capacity, the appellate court upheld the trial court's judgment invalidating the TOD.	Baldwin	3/26/2026
State v. Ramirez	2024 CA 0089	Appeal from the Court of Common Pleas of Richland County , Case No.2024CR 035 N	Affirmed	Defendant's conviction on a felony drug-possession charge was not against the manifest weight of the evidence. Appellant Alejandro Ramirez appealed his conviction and 11-month prison sentence for aggravated possession of drugs following a jury trial in Richland County, but his appellate counsel filed an Anders brief asserting no meritorious grounds for appeal and moved to withdraw. After independently reviewing the record, the appellate court agreed the appeal was frivolous. The court found sufficient evidence supported the conviction, including testimony that Ramirez admitted ownership of methamphetamine found in the residence and forensic confirmation of the substance. Although Ramirez argued the conviction was against the manifest weight of the evidence, the court noted the State was not required to prove he was under the influence and that his admission established constructive possession. Concluding there was no reversible error and that the jury's verdict was supported by the evidence, the court granted counsel's motion to withdraw and affirmed the conviction and sentence.	Gormley	3/26/2026

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State v. Crable	2025 AP 06 0023	Appeal from the Tuscarawas County Court of Common Pleas, Case No. 2022 CR 06 0217	Vacated and Remanded	Imposition of jail sentence for failure to pay restitution Defendant-Appellant Chelsi Crable appealed the trial court’s decision modifying her community control sanctions by imposing a 120-day jail sentence after she failed to make restitution payments on a bad check conviction. Although Crable admitted the violation and her counsel explained her inability to pay due to indigency, unemployment, and family obligations, the trial court revoked her community control without determining whether her failure to pay was willful. The appellate court held that, under Bearden v. Georgia, a court must inquire into the reasons for nonpayment and make findings that the failure was willful or that the defendant failed to make bona fide efforts to pay before imposing incarceration. Because the trial court failed to make such findings, it abused its discretion, and the case was remanded for further proceedings. The court rejected Crable’s ineffective assistance of counsel claim, finding that counsel’s performance was not deficient.	Montgomery	3/27/2026
In re N.K.	2025 CA 0075, 2025 CA 0076	Appeal from the Licking County Court of Common Pleas, Juvenile Division, Case Nos. F2023-0406 and F2023-0407	Affirmed	Permanent custody Appellant M.K. challenged the Licking County Juvenile Court’s decision granting permanent custody of her children, N.K. and K.K., to the county agency, arguing the court erred in denying a continuance and in finding that the children could not be returned to her within a reasonable time or that permanent custody was in their best interest. The appellate court affirmed, holding that the denial of a continuance was not an abuse of discretion because the therapist’s written statement was admitted and additional testimony was speculative. The court further found clear and convincing evidence supporting the trial court’s decision, emphasizing M.K.’s ongoing mental health issues, inconsistent medication compliance, substance abuse (including repeated positive drug tests), unstable relationships involving domestic violence, failure to complete key aspects of the case plan, and inability to provide a safe and stable home. Although M.K. showed some late progress, the court deemed it insufficient compared to her overall lack of compliance. The children, who had lived with foster parents for most of their lives, were thriving, bonded to the foster family, and in need of permanent stability, which the foster parents were willing to provide through adoption. Accordingly, the trial court’s findings that the children could not be placed with M.K. within a reasonable time and that permanent custody was in their best interests were upheld.	Baldwin	3/27/2026