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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. Johnson	2025CA0099	Appeal from the Court of Common Pleas of Richland County , Case No. 2015-CR-0432	Affirmed	Criminal defendant who did not raise a merger argument in his direct appeal is barred by the claim-preclusion doctrine from arguing years later that his offenses were allied offenses that should have been merged at sentencing. Defendant Charles Johnson appealed the trial court's denial of his motion for resentencing following his 2015 convictions for felonious assault and aggravated burglary, for which he received consecutive prison terms of eight and six years. After his direct appeal in 2016—where he argued only ineffective assistance of counsel and the conviction was affirmed—Johnson filed numerous post-conviction motions challenging aspects of his sentence. In October 2025, he filed a motion seeking resentencing, claiming for the first time that the trial court failed to conduct a required allied-offenses analysis under R.C. 2941.25. The trial court denied the motion, treating it as an untimely petition for post-conviction relief. On appeal, the court affirmed, holding that Johnson's claim was barred by the doctrine of claim preclusion because the merger argument could have been raised in his direct appeal. The court further rejected Johnson's contention that the alleged error rendered his sentence void, noting that failure to merge allied offenses does not create a void sentence.	Gormley	3/9/2026
State v. Roehrenbeck	2025 CA 00066	Appeal from the Licking County Court of Common Pleas, Case No. 24 CR 00451	Affirmed	As applied constitutional challenge Defendant-Appellant Caleb Roehrenbeck appealed the trial court's application of Ohio's sex offender registration law under R.C. Chapter 2950, arguing that the automatic classification of him as a Tier II sex offender was unconstitutional as applied to his case. The charges arose after the Licking County Sheriff's Office received cyber tips from Dropbox and Instagram reporting that accounts linked to Roehrenbeck were transmitting child sexual abuse material (CSAM). A search revealed hundreds of files, and investigators discovered that Roehrenbeck posed online as teenage girls to distribute explicit images and videos of minors in exchange for payment through Cash App and PayPal. Roehrenbeck ultimately pled guilty to 38 sexually oriented offenses, including multiple counts of pandering obscenity involving a minor, pandering sexually oriented matter involving a minor, and illegal use of a minor in nudity-oriented material, and he was sentenced to four years of community control and automatically classified as a Tier II sex offender under the Adam Walsh Act. On appeal, Roehrenbeck argued that the automatic classification violated the Ohio Constitution because his conduct was not sexually motivated and lacked a rational relationship to the purpose of sex offender registration. The appellate court rejected this argument, noting that the Adam Walsh Act classifies offenders based on the offense of conviction rather than judicial discretion and that Roehrenbeck, an adult at the time of the offenses, failed to provide clear and convincing evidence that the statute was unconstitutional as applied to him. Accordingly, the court affirmed the trial court's decision.	Montgomery	3/9/2026
Weese v. Dalton	25 CA 000012	Appeal from the Court of Common Pleas of Guernsey County , Case No. 21CV000242	Reconsideration of 2/13/26 Opinion and Judgment Granted, And Trial Court's 5/1/25 Judgment Affirmed	Reconsideration of the court's recent opinion in 2026-Ohio-537 (5th Dist.) is granted, and a new opinion is issued affirming the trial court's judgment in a foreclosure case because the homeowner's statutory exemption under R.C. 2329.66 exceeds the judgment creditor's statutory lien under R.C. 2329.02. The judgment debtor owned an undivided one-half interest in the real property, so the judgment creditor's lien attached solely to that half interest rather than to the entire property. In reconsidering its prior decision, the appellate court determined that it had erred in allowing William Weese to pursue foreclosure against Christina Dalton's home despite her claiming the statutory homestead exemption under R.C. 2329.66. Weese had obtained a judgment against Christina's late husband, Charles Dalton, in 2018 and filed a certificate of judgment in Guernsey County, where Charles owned an undivided one-half interest in the property. After Charles died in 2020, his interest passed to Christina, making her the sole owner of the home. In its earlier decision, the court concluded foreclosure could proceed because the property's appraised value of \$189,000 exceeded Christina's homestead exemption of \$182,625. Upon reconsideration, however, the court recognized that Weese's judgment lien attached only to Charles's one-half interest in the property at the time the certificate of judgment was filed, limiting the lien to approximately \$94,500. Because Christina's homestead exemption exceeded the value of that lien, the court held that foreclosure could not proceed while she resides in the home. The court therefore vacated the conflicting portions of its prior opinion, granted Christina's motion for reconsideration, and affirmed the trial court's judgment in her favor.	Gormley	3/9/2026
State v. Rayner	2025CA0064	Appeal from the Canton Municipal Court (Stark County), Case No. 2025 TRC 308	Dismissed	Crim.R 12(K) The State of Ohio appealed the Canton Municipal Court's decision granting Melissa Rayner's motion to suppress evidence in an OVI case. Police had responded to a 9-1-1 call reporting an unresponsive woman in a running vehicle in a grocery store parking lot, shortly after a similar report involving the same vehicle at a nearby Dunkin' Donuts. Upon arrival, an officer found Rayner unresponsive in the driver's seat; she awoke when touched, was removed from the vehicle, performed field sobriety tests, and was arrested for operating a vehicle while impaired. Rayner moved to suppress the evidence, and the trial court granted the motion. On appeal, however, the appellate court did not address the merits because the State failed to include the certification required by Criminal Rule 12(K) stating that the appeal was not taken for delay and that the suppression ruling effectively destroyed the State's ability to prosecute. As a result, the appellate court held it lacked jurisdiction and dismissed the appeal.	Baldwin	3/10/2026

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In re J.L.	2025 CA 00131	Appeal from the Stark County Court of Common Pleas, Juvenile Division, Case No. 2024 JCV 01163	Affirmed	Permanent Custody The father appealed the September 10, 2025 decision of the Stark County Court of Common Pleas, Juvenile Division, which terminated his parental rights and granted permanent custody of his daughter, J.L., to Stark County Job and Family Services (SCJFS). J.L. was removed shortly after birth because her mother was incarcerated for felony child endangering involving severe abuse of a sibling, and paternity was later established for the father. After being added to the case plan, the father was required to complete parenting and substance abuse assessments and participate in services, but he was arrested and incarcerated for burglary and obstruction of justice before beginning visitation or completing any services, and he never had contact with the child. Evidence showed he would remain incarcerated until at least February 2027, had prior agency involvement and criminal history, and could not complete the necessary case plan within a reasonable time even if released early. Testimony from the caseworker and guardian ad litem established that J.L. was thriving in a foster home with her sibling, was strongly bonded to the foster family, and had no bond with the father. The trial court found by clear and convincing evidence that the father failed to remedy the conditions causing removal, abandoned the child by failing to maintain contact for over ninety days, and that permanent custody with SCJFS was in the child's best interest. The appellate court held that the trial court's findings were supported by competent and credible evidence and therefore affirmed the judgment.	Popham	3/10/2026
State v. Smith	2025 CA 00070	Appeal from the Licking County Municipal Court, Case No. 25-TRD-05540	Affirmed	Texting while driving Justin Smith appealed his conviction for prohibited use of an electronic device while driving under R.C. 4511.204 after a bench trial in the Licking County Municipal Court. An Ohio State Highway Patrol trooper testified that while monitoring traffic he observed Smith driving with a cellphone in his right hand above the steering wheel and manipulating it, which led to a traffic stop and citation. Smith told the trooper he had been entering a GPS destination to pick up his son and later testified that he was not holding the phone when he passed the trooper, presenting reenactment videos to challenge the officer's ability to see the device. The trial court found the trooper's testimony more credible, reviewed the video evidence, and found Smith guilty, imposing a \$50 fine and costs. On appeal, Smith argued the conviction was unsupported by sufficient evidence and was against the manifest weight of the evidence, but the appellate court held that the trooper's testimony and Smith's statements provided adequate evidence and that credibility determinations were for the trial court. Accordingly, the appellate court affirmed the conviction.	Baldwin	3/10/2026
State ex rel. Holloman v. Schuck	26 CAD 010004	Writ of Prohibition Delaware County	Dismissed	Writ of Prohibition Martin L. Holloman filed a complaint seeking a writ of prohibition against Judge James P. Schuck of the Delaware County Court of Common Pleas, arguing the judge lacked jurisdiction to grant Holloman's motion to withdraw his no contest and guilty pleas on grounds not raised in the motion and to proceed to trial afterward. Holloman had originally pleaded no contest to failure to comply and guilty to theft as part of a plea agreement, but later moved to withdraw his pleas. The trial court granted the motion before sentencing after reviewing the plea hearing and determining it did not fully comply with Criminal Rule 11, and the case proceeded to a jury trial where Holloman was convicted of failure to comply and four theft counts. In response to Holloman's prohibition action, the appellate court granted the judge's Civ.R. 12(B)(6) motion to dismiss, finding that the trial court had authority under Criminal Rule 32.1 and its inherent powers to permit withdrawal of a plea before sentencing and had subject-matter jurisdiction over the felony case to conduct the trial. The court further held that prohibition cannot be used to correct past judicial actions where the court had jurisdiction and where an adequate remedy, such as direct appeal, exists. Accordingly, the complaint for a writ of prohibition was dismissed for failure to state a claim.	Popham	3/10/2026
State v. Semenchuk	2025 CAA 06 0046	Appeal from the Delaware County Court of Common Pleas, Case No. 25 CRI 01 0055	Affirmed	Consecutive sentences; Allied offenses Orest Semenchuk appealed his convictions and consecutive sentences in the Delaware County Court of Common Pleas after pleading guilty pursuant to a negotiated plea agreement to two counts of pandering sexually oriented matter involving a minor, with two additional counts dismissed. Semenchuk had previously been convicted of similar offenses in 2023 and was on community control when the new offenses occurred. After reviewing a presentence investigation report and hearing statements from the parties, the trial court sentenced him to forty-eight months in prison on each count, to be served consecutively. On appeal, Semenchuk argued that the consecutive sentences were unsupported by the record, contrary to law, and that the offenses should have merged as allied offenses of similar import. The appellate court rejected these arguments, finding the trial court made the required statutory findings for consecutive sentences, including that the offenses were committed while Semenchuk was under a court-imposed sanction, and that the record supported those findings. The court also held that Semenchuk forfeited his allied-offense argument by failing to raise it at sentencing and, in any event, the offenses did not merge because each count involved a separate image, constituting distinct acts and harms. Accordingly, the appellate court affirmed the convictions and sentences.	Popham	3/10/2026

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State v. Fincher	25CA000006	Appeal from the Knox County Court of Common Pleas, Case No. 25CR01-0019	Affirmed	Review of plea; Sentence; Ineffective assistance of counsel Joshua A. Fincher appealed his June 13, 2025 conviction and twenty-month prison sentence from the Knox County Court of Common Pleas after pleading guilty to a fourth-degree felony OVI and a first-degree misdemeanor for failure to stop after an accident, stemming from a January 2025 indictment that also included driving under suspension and obstructing official business. Fincher's appellate counsel filed an Anders brief asserting that no meritorious issues existed but suggesting potential errors in the acceptance of the guilty plea, sentencing, and effectiveness of trial counsel. After independently reviewing the record, the appellate court found the trial court properly complied with Crim.R. 11 during the plea colloquy, ensuring Fincher knowingly, intelligently, and voluntarily waived his constitutional rights. The court also determined the sentence—twenty months for the felony and 160 days for the misdemeanor, served concurrently—fell within statutory ranges and was imposed after proper consideration of Ohio's sentencing statutes. Additionally, the court found no evidence that defense counsel's performance was deficient or prejudicial. Concluding the appeal was wholly frivolous, the court granted counsel's request to withdraw and affirmed the trial court's judgment.	King	3/11/2026
In re E.E.	25CA000043	Appeal from the Guernsey County Court of Common Pleas, Juvenile Division, Case No. 23JC00262	Affirmed	Mother's appeal on permanent custody K.P. appealed the October 27, 2025 decision of the Guernsey County Juvenile Court terminating her parental rights and granting permanent custody of her child, E.E., to Guernsey County Children Services (GCCS). The case began in September 2023 after concerns about the mother's homelessness and the presence of inappropriate individuals around the child, leading to the child's removal and eventual adjudication as dependent. GCCS later moved for permanent custody in May 2025 after the child had remained in agency custody for over twelve months of a consecutive twenty-two-month period. The trial court found that K.P. failed to substantially comply with her case plan, including failing to maintain stable housing, adequately address mental health issues, and demonstrate sufficient parenting skills to meet the child's needs. Evidence also showed the child required medical and developmental care that the parents had not actively addressed, while foster caregivers were meeting those needs. Considering statutory best-interest factors, including the child's custodial history, need for a secure permanent placement, and recommendations from the guardian ad litem and caseworker, the appellate court concluded the trial court's decision was supported by clear and convincing evidence and affirmed the termination of parental rights and grant of permanent custody to GCCS.	King	3/11/2026
State v. Toleque	25CA-A-05-0039	Appeal from the Court of Common Pleas of Delaware County , Case No. 23CR-I-11-0675	Affirmed	The trial court properly admitted some trial testimony under the excited-utterance hearsay exception, properly declined to merge kidnapping and murder charges, and properly imposed prison terms for two firearm specifications in accordance with R.C. 2929.14(B)(1)(g). Brandon Toleque appealed his Delaware County jury convictions for murder, kidnapping, and rape, challenging the admission of certain testimony, the sufficiency and weight of the evidence, the trial court's refusal to merge the murder and kidnapping offenses, and the imposition of two firearm-specification sentences. The evidence at trial showed that Toleque shot and killed A.R. at his home, threatened A.R.'s girlfriend S.G. with a gun, forced her to leave with him, and drove her across Ohio and into Indiana, where he compelled her to engage in sex while she feared for her life. After a high-speed police chase in Indiana, S.G. escaped and reported the shooting and assaults, and physical evidence—including DNA and ballistics—corroborated her account. On appeal, the court held that S.G.'s statements to police were properly admitted as excited utterances, the evidence was sufficient and not against the manifest weight to support the rape, kidnapping, and murder convictions, and the kidnapping did not merge with the murder because it involved a separate victim, conduct, and animus. The court also ruled that Ohio law required separate sentences for two firearm specifications despite the merger of the murder counts. Accordingly, the appellate court affirmed Toleque's convictions and sentence.	Gormley	3/11/2026
Callan v. Callan	2025CA00036	Appeal from the Court of Common Pleas of Stark County , Family Court Division, Case No. 2022DR00662	Affirmed	An appellant's failure to include in the record on appeal several key parts of the trial transcript hampers an appellate court's ability to grant the relief sought by the appellant. The trial court did not err by imposing linimits on a pro se party's ability to view and copy R.C. 3109.04(C) reports prepared by a psychologist for that party's divorce case. Defendant Jeremy Callan appealed the Stark County Family Court's divorce decree that dissolved his marriage to Samantha Callan, divided marital property, awarded custody of the parties' daughter to Wife, and ordered Husband to pay child support. Representing himself on appeal, Husband raised several challenges, including objections to the admission of psychological evaluation reports and certain audio and video recordings, the division of marital property, and alleged judicial bias. The appellate court noted significant deficiencies in Husband's appellate brief and record, including the failure to provide most of the trial transcripts and exhibits, which limited review of several claims. The court determined that the trial court properly allowed Husband the opportunity to review—but not copy—the psychological evaluation reports, did not abuse its discretion in admitting the recordings, and had adequate grounds for its property division based on the available record. The court also found no evidence of judicial bias and noted that the Chief Justice of the Ohio Supreme Court had already denied Husband's request to disqualify the trial judge. Accordingly, the appellate court affirmed the trial court's judgment.	Gormley	3/12/2026

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In re I.F.	2025 CA 00082 & 2025 CA 00083	Appeal from the Licking County Common Pleas Court, Juvenile Division, Case Nos. F20240131 and F2024-0293	Affirmed	Permanent custody; Best interest of child factors; Clear and convincing evidence; Case plan objectives; R.C. 2151.414(B)(1); R.C. 2151.414€ Biological mother Briana Robinson/Freeman appealed the Licking County Court of Common Pleas, Juvenile Division’s decision granting permanent custody of her children, I.F. and N.F., to Licking County Job and Family Services. The children were removed due to ongoing concerns including domestic violence between the parents, mental health issues, unstable housing, and financial instability, and were later adjudicated dependent. Although Mother participated in some services and visitation, the agency presented evidence that she failed to substantially remedy the conditions that led to the children’s removal, including inconsistent mental health treatment, unstable housing and employment, and continued involvement with the father despite a history of domestic violence. The trial court found by clear and convincing evidence that the children could not be safely placed with either parent within a reasonable time and that permanent custody was in their best interests, noting the children’s stability and strong bond with their foster family, who wished to adopt them. The appellate court concluded that the trial court’s findings were supported by competent, credible evidence and therefore affirmed the grant of permanent custody to the agency.	Montgomery	3/12/2026
State v. Schaumleffel	2025 CA 00058	Appeal from the Licking County Municipal Court, Case No. 24 TRC 08345	Affirmed	Ineffective assistance of counsel Defendant James Schaumleffel appealed his conviction for operating a vehicle while intoxicated (OVI), arguing that the trial court violated his Sixth Amendment rights by denying his attorney’s motion to withdraw and that he received ineffective assistance of counsel. Schaumleffel had been charged with two OVI counts following a traffic stop in September 2024. After one appointed attorney withdrew, a second attorney filed a motion to suppress evidence and later sought to withdraw, citing a breakdown in trust after Schaumleffel sent letters criticizing his performance. At a hearing, however, Schaumleffel told the court he was not dissatisfied with counsel and wanted him to continue representing him. The trial court denied the withdrawal request, and a jury later found Schaumleffel guilty of one OVI count. On appeal, the court held that the trial court did not abuse its discretion because Schaumleffel himself did not request new counsel and the court adequately addressed the concerns at the hearing. The court also rejected the ineffective assistance claim, finding no evidence that counsel’s performance fell below an objective standard of reasonableness or prejudiced the defense, and therefore affirmed the conviction.	Montgomery	3/12/2026