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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. Parker	26CA000009	Appeal from the Guernsey County Court of Common Pleas, Case No. 24CR 184	Affirmed	Because defendant was on probation at the time of the present offense, he was not eligible for mandatory community control. R.C. 2929.13(B)(1)(b)(x) Aaron J. Parker appealed his conviction and eighteen-month prison sentence following negotiated guilty pleas to two fifth-degree felony counts of harassment with a bodily substance. The charges arose from an August 2025 incident in which Parker, while on probation for a prior disorderly conduct conviction, became aggressive toward sheriff's deputies responding to a reported protection-order violation, threw a bucket of vomit onto them, resisted arrest, and struck his head against the police cruiser partition. Parker argued that the trial court was required to impose mandatory community control under R.C. 2929.13(B)(1). The Fifth District Court of Appeals rejected his argument, holding that the statutory exception in R.C. 2929.13(B)(1)(b)(x) applied because Parker committed the offenses while on probation, giving the trial court discretion to impose prison. The court also concluded that the community-control presumption did not apply because Parker pleaded guilty to multiple fifth-degree felonies rather than a single qualifying felony. Accordingly, the court held that Parker's consecutive nine-month sentences, totaling eighteen months, were authorized by law and affirmed the judgment of the Guernsey County Court of Common Pleas.	Popham	9/11/2026
Miller v. Bellofatto	2025 CA 00081	Appeal from the Licking County Court of Common Pleas, Case No. 23 CV 00132	Affirmed	Restrictive covenant; Motion for summary judgment; Damages Charles P. and Kristy L. Bellofatto appealed the Licking County Court of Common Pleas' decisions granting summary judgment to neighboring property owners concerning a 1,440-square-foot outbuilding the Bellofattos constructed on property they had combined with their subdivision lot. The Bellofattos argued that the Hampden Ridge Subdivision's restrictive covenants did not apply to the newly acquired acreage, that the trial court improperly excluded evidence, that genuine issues of material fact precluded summary judgment, and that ordering them to demolish the nearly \$150,000 structure was improper. The Fifth District Court of Appeals rejected their arguments, holding that the restrictive covenants were clear and unambiguous, ran with the land, and applied to the combined Lot 10A because the Bellofattos had legally merged the new acreage with their original subdivision lot, which was subject to the covenants. The court also held that the Bellofattos knowingly proceeded with construction without obtaining the required written approval from the subdivision developers despite being aware of the restrictions and receiving notice from neighbors. The court further found no abuse of discretion in striking an affidavit statement offering an unsupported opinion about what an "average person" would understand regarding the subdivision's boundaries. Finally, the majority held that removal of the noncompliant structure was an appropriate remedy for violating the restrictive covenant and affirmed the trial court's judgment. Judge King concurred in part but dissented from the demolition order, reasoning that a mandatory injunction requiring removal of the building is an extraordinary remedy and that the record did not contain sufficient evidence to establish that the Bellofattos willfully violated the covenant; he would have remanded for an evidentiary hearing to determine good faith and whether demolition or compensatory damages was the appropriate remedy.	Baldwin	9/11/2026
State v. Browning	2025 CA 00029	Appeal from the Fairfield County Court of Common Pleas, Case No. 2024CR00220	Reversed and Remanded	Suppression Shay M. Browning appealed her convictions and sentence for drug-trafficking and drug-possession offenses, arguing that the trial court improperly denied her motion to suppress evidence stemming from an unlawful April 30, 2024 traffic stop. The Fifth District Court of Appeals agreed in part, finding that the stop was unlawful because law enforcement had planned to arrest Browning without a warrant and without observing an arrestable offense, and the arrest was intended to occur regardless of whether a canine alerted or contraband was found. Although the court held that the search warrant for Browning's residence was supported by an independent source—the controlled drug purchases and other information gathered before the stop—the court concluded that Browning's statements made during and after the arrest were fruits of the unlawful seizure. Applying the factors from <i>Brown v. Illinois</i>, the court found that Browning's first statement, made only five minutes after the unlawful stop and before Miranda warnings, was not sufficiently attenuated, and that her recorded jail interview the following day was likewise inadmissible because she remained continuously detained and the fresh Miranda warnings alone did not purge the taint of the unlawful arrest. Because the statements should have been suppressed and were introduced at trial, the court found prejudicial error requiring reversal of Browning's convictions and sentence and remand for further proceedings; her remaining assignments of error were overruled as moot.	Baldwin	9/11/2026



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In re P.L.	2026 CA 0030	Appeal from the Licking County Court of Common Pleas, Juvenile Division, Case No. C2025-0250	Affirmed	Temporary Custody; Dependent Child Pursuant to R.C. 2151.04(D) B.L. and J.L., the biological parents of a newborn child, appealed the Licking County Juvenile Court’s decision granting temporary custody of the child to Licking County Job and Family Services (LCJFS). The parents argued that the child was improperly adjudicated dependent, that the court improperly relied on the mother’s positive Suboxone drug test, that their right to counsel was violated when the dispositional hearing began before their attorney arrived, that temporary custody was more restrictive than protective supervision, and that LCJFS failed to make reasonable efforts toward reunification. The Fifth District Court of Appeals rejected all of these arguments and affirmed the juvenile court’s judgment. The court found clear and convincing evidence that the child was at risk of abuse or neglect based on the parents’ unresolved substance-abuse and mental-health concerns, criminal history, lack of progress in their prior case plans, and the dependency and permanent-custody proceedings involving the child’s older siblings. The court also determined that the mother’s positive Suboxone test was supported by competent evidence, the brief testimony given before counsel arrived did not prejudice the parents, temporary custody was in the child’s best interest, and LCJFS had made reasonable and diligent efforts to facilitate reunification.	Hoffman	9/14/2026
In re Affidavit for Criminal Complaint Filed by Benson	26CA000025	Appeal from the Guernsey County Court of Common Pleas, Case No. 26CV000175	Affirmed	R.C. 2935.09; R.C. 2935.10; Affidavit of criminal conduct; Designation of case number; Appointment of special prosecutor; Duty of trial court to allow response and provide findings of fact Affiant-Appellant Marvin Benson appealed the Guernsey County Common Pleas Court’s dismissal of his citizen criminal affidavit filed under R.C. 2935.09, which alleged that Detective Gregory Clark committed numerous offenses during Benson’s police interview following the 2018 death of his girlfriend’s six-year-old son. The trial court referred the affidavit to the county prosecutor under R.C. 2935.10, and the prosecutor reported that the allegations had already been investigated and that there was no evidence of criminal conduct by Clark. On appeal, Benson argued that the affidavit should have received a criminal rather than civil case number, that a special prosecutor was required because of an alleged conflict of interest, that he was denied an opportunity to respond to the prosecutor’s findings, and that the trial court was required to issue findings of fact and conclusions of law. The appellate court rejected all four arguments, holding that Benson had no right to a particular case number, the alleged connection between Clark and the prosecutor’s husband did not establish a disqualifying conflict, and once the trial court referred the matter to the prosecutor for investigation, its statutory duty under R.C. 2935.10(A) ended, leaving it with no obligation to review the prosecutor’s decision, permit Benson to respond, or issue findings of fact and conclusions of law. The court therefore overruled all assignments of error and affirmed the trial court’s judgment.	Montgomery	9/15/2026
Jimenez Guifarro v. Mendoza Mejia	2025CA00148	Appeal from the Stark County Court of Common Pleas, Juvenile Division, Case No. 2025JC000283	Reversed and Remanded	Juvenile Court failed to make required special immigrant juvenile findings under federal law Plaintiff-Appellant Felix Joel Jimenez Guifarro appealed the Stark County Juvenile Court’s August 12, 2025 judgment awarding him legal custody of his son but declining to make the predicate findings necessary for the child to pursue Special Immigrant Juvenile (SIJ) status. The child was born in Honduras and lived with father in Ohio, while mother remained in Honduras. Father alleged that mother had abandoned the child and sought findings concerning neglect, abandonment, parental reunification, and the child’s best interests so he could pursue SIJ status through USCIS. The appellate court held that the juvenile court erred in concluding that an award of legal custody to a parent could not qualify as placement under the custody of an individual appointed by a juvenile court under federal SIJ law. It further held that father’s ability to provide a safe and stable home did not resolve the separate questions of whether reunification with mother was viable or whether returning the child to Honduras was in the child’s best interest. Relying in part on the Tenth District’s intervening decision in Pelaez v. Moreno and its own prior decision in In re J.A.S., the court held that Ohio’s abandonment presumption may apply to only one parent and that the juvenile court must independently address the SIJ predicate findings. The court therefore affirmed the award of legal custody to father but reversed the judgment insofar as it refused to make the requested SIJ findings and remanded the matter for the juvenile court to determine whether reunification with mother was not viable due to abandonment, neglect, or a similar basis under Ohio law and whether returning the child to Honduras was contrary to his best interests.	King	9/15/2026



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Jordan v. Jordan	25 CAF 11 104 25 CAF 11 105	Appeal from the Delaware County Court of Common Pleas, Division of Domestic Relations, Case No. 22 DRA 10 0656	Affirmed	Divorce; Dower; Marital property Husband-Appellant Robert Jordan and Wife-Cross-Appellant Emily Jordan both appealed the Delaware County Court of Common Pleas, Domestic Relations Division's divorce decree, challenging various decisions concerning the parties' children, property division, income, spousal support, and attorney fees. After an extensive trial involving numerous witnesses and exhibits, the trial court awarded the parties shared parenting and equal parenting time, valued Wife's dental practice at \$1,165,000 but excluded \$585,204 attributable to Wife's personal goodwill from marital property, determined Wife's income to be \$545,646 and Husband's to be \$77,500.80 for support purposes, ordered Wife to pay Husband \$5,500 per month in spousal support for 56 months, and treated Wife's \$41,553 in pre-decree attorney and expert-fee payments as a distribution of marital property. On Husband's appeal, the court held that personal goodwill associated with a professional practice is not marital property subject to division, distinguishing it from enterprise goodwill, and concluded that the trial court's valuation of the dental practice and calculation of Wife's income were supported by competent, credible evidence. On Wife's cross-appeal, the court found no abuse of discretion in the shared-parenting arrangement, determining that there is no presumption favoring equal parenting time and that the trial court properly considered the statutory best-interest factors, including Husband's alcohol history and the Guardian ad Litem's recommendations. The court also upheld the income determinations, finding insufficient evidence that Husband was voluntarily underemployed and concluding that Ohio law permits consideration of business income for spousal-support purposes even when the business itself is awarded to a spouse. Finally, the court upheld the amount and duration of spousal support and determined that accounting for Wife's pre-decree attorney and expert-fee payments in the property division was not an award of Husband's attorney fees. Accordingly, all of Husband's and Wife's assignments of error were overruled, and the trial court's judgment was affirmed in full.	Montgomery	9/15/2026
In re D.C.	2026CA00073	Appeal from the Stark County Court of Common Pleas, Family Court Division, Case No. 2024JCV01109	Affirmed	Permanent custody; Parent's right to counsel; Waiver of counsel; Implied waiver of counsel; Continuance Mercedee Chenault appealed the Stark County Court of Common Pleas, Family Court Division's decision granting Stark County Job and Family Services permanent custody of her child, D.C., and terminating her parental rights. Chenault argued that the trial court violated her right to counsel by allowing her second appointed attorney to withdraw and failing to appoint another attorney, and that the court improperly denied her request for a continuance. The appellate court rejected both arguments, finding that Chenault's repeated failure to cooperate with multiple appointed attorneys, accusations against counsel, breakdowns in communication, and conduct that caused prior attorneys to withdraw amounted to an implied waiver of her right to counsel. The court also held that the trial court properly denied the continuance because Chenault's own conduct created the circumstances requiring the request, the permanent-custody hearing had already been continued, and further delay conflicted with the child's need for safety, stability, and permanency. The appellate court therefore overruled both assignments of error and affirmed the trial court's judgment in full.	Montgomery	9/16/2026