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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. Thompson	2025CA00132	Appeal from the Stark County Court of Common Pleas, Case No. 2025-CR-0864A	Affirmed	Authentication of evidence; Weight/sufficiency of evidence The appellant, Roger Lee Thompson, appealed his convictions arising from an April 12, 2025 shooting outside the Shorb Drive Thru in Canton, Ohio, where two men fired multiple shots at a passing vehicle. The State relied primarily on surveillance and doorbell videos, recovered shell casings, a firearm and clothing found at a residence where Thompson was present, GPS data placing his co-defendant V.W. near the scene, and a detective's identification of Thompson from photographs and video evidence. Thompson raised four assignments of error, arguing that the trial court improperly disclosed a repeat violent offender specification to the jury, improperly admitted surveillance video without sufficient authentication, and that his convictions were unsupported by sufficient evidence and against the manifest weight of the evidence. The appellate court acknowledged that mentioning the repeat violent offender specification was error, but held that Thompson invited any challenge to the curative instruction by choosing that remedy instead of a mistrial. The court also found the surveillance video adequately authenticated because the detective had personal familiarity with the business and viewed the footage with its owner, while other evidence corroborated the timestamps. Finally, the court concluded that although there was no eyewitness identification, DNA, or fingerprint evidence directly linking Thompson to the shooting, the circumstantial evidence—including the videos, matching clothing, firearm evidence, V.W.'s GPS data, and the detective's identification—was sufficient to support the convictions and did not demonstrate that the jury lost its way. Accordingly, the appellate court overruled all four assignments of error and affirmed Thompson's convictions and aggregate 16-to-20-year sentence.	Baldwin	9/4/2026
State v. Williams	2026 CA 0018	Appeal from the Court of Common Pleas of Richland County , Case No. 2024 CR 0062 R	Affirmed	A felony defendant's sentence was not contrary to law where (1) the judge considered the overriding purposes of sentencing in R.C. 2929.11 and the seriousness and recidivism factors in R.C. 2929.12, (2) a separate prison term was imposed for each offense, with each prison term falling within the appropriate statutory range, and (3) the judge then made the necessary consecutive-sentence findings. Dustin Williams appealed his sentence for two fifth-degree felony drug offenses, arguing that the trial court failed to properly apply Ohio's felony-sentencing purposes and seriousness/recidivism factors. Williams had originally pleaded no contest in 2024 and was placed in a treatment-court program, but after repeatedly violating program requirements, testing positive for illegal drugs, and failing to report to his supervising officer, the court entered guilty findings in 2026. The trial court then sentenced him to nine months in prison on each drug offense, to be served consecutively, plus concurrent jail time for misdemeanor theft. The appellate court affirmed, holding that it could not reweigh the R.C. 2929.11 and 2929.12 factors under controlling Ohio Supreme Court precedent and that the sentences were otherwise lawful because they fell within the statutory range and the trial court made the required findings for consecutive sentences.	Gormley	9/4/2026
Ross v. Ross	2026 CA 00005	Appeal from the Licking County Court of Common Pleas, Case No. 25 CV 00615	Affirmed	Civil Stalking Protection Order Vanessa Ross appealed the issuance of a civil stalking protection order (CSPO) obtained by her former brother-in-law, Justin Ross, arguing that there was insufficient evidence of stalking, the social-media videos were improperly authenticated, the court misapplied the "pattern of conduct" requirement, and the trial court failed to independently review her objections to the magistrate's decision. The appellate court rejected all four arguments and affirmed the CSPO. The court found that Ross's repeated social-media videos contained statements that could reasonably cause Justin Ross to fear physical harm or mental distress, and that his resulting actions—including contacting law enforcement, hiring additional church security, and seeking counseling—supported the finding of mental distress. The court also held that the videos were properly authenticated through the testimony of Justin Ross and Ross's own admission that she created and posted them. Because Ohio law expressly allows electronic messages to constitute a pattern of conduct, her repeated online posts over several months satisfied that requirement even without physical contact. Finally, the appellate court found that the trial court properly conducted an independent review of the magistrate's decision and objections.	Popham	9/4/2026



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In re D.M.	CT2026-0042 CT2026-0043	Appeal from the Muskingum County Court of Common Pleas, Juvenile Division, Case Nos. 22330142 22330143	Affirmed	Permanent Custody The Fifth District Court of Appeals affirmed the Muskingum County Juvenile Court's decision granting the Agency permanent custody of S.H.'s two children, Z.B. and D.M., and terminating her parental rights. The court found that the children had been in the Agency's temporary custody for more than 12 of 22 consecutive months, an independent statutory basis for permanent custody. The court also concluded that Mother had failed to substantially remedy the conditions leading to the children's removal, including substance abuse, housing instability, inadequate parenting skills, inconsistent visitation, and failure to obtain recommended specialized parenting services. The evidence further supported the finding that permanent custody was in the children's best interests because they needed a safe and stable permanent placement, had expressed a desire not to return to Mother, and were doing well in their foster placements. The court rejected Mother's argument that the Agency failed to make reasonable reunification efforts, noting that the juvenile court had repeatedly made such findings during earlier proceedings and Mother had not challenged them. Finally, the court rejected Mother's due-process claim, finding no evidence that the trial court improperly restricted her presentation of evidence, particularly because Mother did not object, request additional time, testify, or present witnesses or other evidence. Accordingly, all three assignments of error were overruled and the permanent-custody judgments were affirmed.	Popham	9/8/2026
State v. Mendez	2026 CA 00008	Appeal from the Fairfield County Municipal Court, Case No. 25 CRB 00551	Affirmed	Jury instruction The Fifth District Court of Appeals affirmed Enrique V. Mendez's conviction for discharging a firearm within the city limits of Lancaster. Mendez accidentally fired his handgun while cleaning it in his home, shooting himself in the leg, and argued on appeal that the trial court should have instructed the jury that the ordinance required proof that he acted recklessly. The appellate court rejected this argument, explaining that Lancaster Codified Ordinance 549.08 does not specify a culpable mental state and, under R.C. 2901.21, an offense is subject to strict liability when the law plainly indicates an intent to impose liability without regard to mental state. Because the ordinance is a public-welfare regulation designed to protect the safety and well-being of Lancaster residents from the dangers of gunfire within city limits, the court concluded that strict liability was appropriate. Therefore, the trial court properly refused to give a recklessness instruction, and Mendez's conviction and \$100 fine were affirmed.	Baldwin	9/8/2026
State v. Mack	22CA83	Appeal from Richland County Case No. 22CA83	Affirmed	Application to Reopen, Sierah's Law, R.C. 2903.42(A)(1)(a), Ineffective Assistance of Counsel In this reopened appeal, John H. Mack, Jr. argued that the trial court violated Sierah's Law by failing to inform him before sentencing that the presumption requiring his enrollment in Ohio's Violent Offender Database (VOD) was rebuttable and explain the procedure and criteria for challenging that presumption, and that his appellate counsel was ineffective for failing to raise the issue on direct appeal. The Fifth District Court of Appeals agreed that the trial court technically failed to provide the required statutory notifications, but held that the error did not constitute plain error because Mack could not demonstrate prejudice. Mack was convicted as the principal offender of aggravated murder, murder, kidnapping, and numerous other offenses arising from the death of his former girlfriend, and the court found no genuine basis for concluding that he could prove he was not the principal offender—a requirement for rebutting the VOD presumption. Because any attempt to rebut the presumption would have been futile, the court concluded that a remand would serve no meaningful purpose and that the error did not result in a manifest miscarriage of justice. For the same reason, Mack could not satisfy the prejudice requirement under Strickland v. Washington and therefore failed to establish ineffective assistance of appellate counsel. The court accordingly affirmed its prior judgment and Mack's convictions.	Smith	9/9/2026
State v. Kennedy	2026CA00021 2026CA00022	Appeal from the Stark County Court of Common Pleas Case Nos. 1998CR1019 1998CR0987A	Affirmed	Post-conviction relief Kennedy appealed the Stark County Court of Common Pleas' denial of his petitions for postconviction relief and his motion to dismiss or vacate his convictions based on alleged destruction of exculpatory evidence and discovery violations. Kennedy had pleaded guilty in 1998 to breaking and entering, vandalism, forgery, and receiving stolen property, but waited 27 years to seek postconviction relief. He argued that newly discovered evidence showed his initials on a Miranda waiver had been forged, that trial counsel was ineffective for failing to challenge the waiver and provide discovery, and that the structure involved in his breaking-and-entering conviction did not qualify as an "occupied structure." The Fifth District Court of Appeals affirmed the trial court, finding that Kennedy's petitions were grossly untimely and that he failed to satisfy the exceptions under R.C. 2953.23(A) necessary for an untimely petition. The court held that the alleged forgery was not newly discovered evidence because the waiver existed before Kennedy's guilty plea, and his ineffective-assistance claims were supported only by conclusory allegations and his own self-serving affidavit, which did not establish a constitutional violation or prejudice. The court further held that his claims were barred by res judicata because he could have raised them in a direct appeal but failed to do so. Accordingly, the trial court lacked jurisdiction to consider the untimely petitions, no evidentiary hearing was required, and the judgments denying Kennedy's requested relief were affirmed.	King	9/10/2026



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State v. Packard	26 CAA 03 0021	Appeal from the Delaware County Court of Common Pleas, Case No. 24 CRI 12 0762	Remanded	Post release control advisement Ashton Packard appealed the post-release-control (PRC) portion of his sentence after pleading guilty to felony domestic violence, arguing that the trial court failed to properly advise him of all possible penalties for violating PRC. The Fifth District Court of Appeals agreed, finding that although the trial court correctly advised Packard that PRC was discretionary and could last up to two years, it failed to explain the statutory consequences of violating PRC, including the possibility of imprisonment for up to 50% of the stated prison term or, for a new felony, the greater of one year or the remaining PRC period. Under State v. Grimes, proper PRC notification requires the court to advise the defendant of whether PRC is mandatory or discretionary, its duration, and the consequences of violating its conditions. Because the trial court did not fully satisfy these requirements during the sentencing hearing, the appellate court remanded the case for the limited purpose of conducting a new sentencing hearing to properly impose PRC, while leaving the remainder of Packard's sentence undisturbed.	Baldwin	9/10/2026