

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
January 13, 2023

These case summaries are issued for the convenience of the public, the bench, and the bar. They are a brief statement of the court's holdings and are not to be considered headnotes or syllabi. Copies of opinions are available from the particular county's clerk of courts. The full text of each opinion will be available on the Ohio Supreme Court's website at <http://www.supremecourt.ohio.gov/rod/docs/?source=2>.

Case Name: *State of Ohio v. Brandon William Leigh*
Case No: Montgomery C.A. No. 28821; T.C. Case No. 18-CR-3087
Panel: Welbaum, Epley, Lewis
Author: Christopher B. Epley
Summary: Appellant was convicted of murder, involuntary manslaughter, improperly discharging a firearm at or into a habitation, and having weapons while under disability. Appellant's convictions were based on sufficient evidence and were not against the manifest weight of the evidence. The trial court did not err in admitting Facebook Messenger messages; the messages were properly authenticated, did not contain inadmissible hearsay, and were not contrary to Evid.R. 404(B). The playing of an audio-recording of an absent witness's prior probable cause hearing testimony did not violate appellant's rights under the Confrontation Clause or Evid.R. 804. No ineffective assistance of counsel or cumulative error demonstrated. Judgment affirmed.

Case Name: *State of Ohio v. William L. Blair, Jr.*
Case No: Montgomery C.A. No. 29378; T.C. Case No. CRB2101259
Panel: Welbaum, Epley, Lewis
Author: Christopher B. Epley
Summary: Appellant's convictions for persistent disorderly conduct and obstructing official business were supported by sufficient evidence and were not against the manifest weight of the evidence. Those convictions will be affirmed. Appellant's conviction for failure to disclose personal information will be vacated, because there was no evidence that officers asked for his information in a public place. Judgment affirmed in part and vacated in part.

Case Name: *In the Matter of: K.P., C.L., K.V.*
Case No: Greene C.A. No. 2022-CA-43; T.C. Case Nos. 2019-C-00015; 2019-C-00016; 2019-C-00017
Panel: Tucker, Welbaum, Epley
Author: Jeffrey M. Welbaum
Summary: The trial court did not abuse its discretion in granting permanent custody of two of appellant's children to a children services agency or in ordering that a third child be placed in a planned permanent living arrangement ("PPLA") with the agency. Appellant's persistent failure to remedy her substance abuse problems and to recognize their negative impact on her children provided clear and convincing evidence that the permanent custody award and the PPLA placement were in the children's best interests. The court's decision was supported by competent, credible evidence. Judgments affirmed.

Case Name: *Pacetti's Apothecary, Inc. dba Medicine Shoppe, et al. v. Rebound Bracing and Pain Solutions, LLC, et al.*
Case No: Greene C.A. No. 2022-CA-28; T.C. Case No. 2021 CV 0415
Panel: Tucker, Welbaum, Lewis
Author: Jeffrey M. Welbaum
Summary: The trial court did not err in finding that a late payment fee provision in a contract was a penalty instead of being enforceable as liquidated damages. Under the established test for resolving this issue, appellant's damages were not uncertain as to amount or difficult to prove. The trial court correctly found no relationship between the late fee and appellant's damages. The court also did not err in refusing to pierce the corporate veil, as there was insufficient evidence that the party who signed the contract had exercised control over a limited liability corporation in such a manner as to commit fraud, an illegal act, or a similarly unlawful act. Judgment affirmed.

Case Name: *State of Ohio v. Gregory E. Blanton*
Case No: Montgomery C.A. No. 29451; T.C. Case No. 2020 CR 01381
Panel: Tucker, Welbaum, Lewis
Author: Jeffrey M. Welbaum
Summary: The trial court did not err by failing to include a jury instruction on involuntary manslaughter as a lesser included offense of purposeful murder and felony murder because, under the circumstances of this case, such an instruction would have improperly duplicated the murder charges. The trial court also did not err by adding language to the standard jury instruction on appellant's blackout defense where the additional language was a correct, pertinent statement of

law that applied to the facts of appellant's case. In addition, appellant's convictions were not against the manifest weight of the evidence, and the various ineffective assistance claims raised by appellant lack merit. Judgment affirmed.

Case Name: *State of Ohio v. Robert L. Nolan*
Case No: Greene C.A. No. 2022-CA-29; T.C. Case No. 2021-CR-0258
Panel: Tucker, Welbaum, Epley
Author: Michael L. Tucker
Summary: Following a jury trial, appellant was convicted of several drug possession and drug trafficking counts. Additionally, based upon a forfeiture specification included in the indictment and following a hearing, the trial court ordered the forfeiture of monies held in a bank account appellant maintained. The convictions were not against the manifest weight of the evidence, and the trial court's forfeiture decision was supported by clear and convincing evidence. Judgment affirmed.