

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
December 29, 2023

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Case Name: *Deborah D. Owensby (Tisdale) v. Dwann L. Owensby Sr.*
Case No: Montgomery C.A. No. 29815; T.C. Case No. 2016 DR 00886
Panel: Welbaum, Tucker, Huffman
Author: Jeffrey M. Welbaum
Summary: Appellant failed to file a transcript when she objected to the magistrate's decision, which found that appellee, the child support obligor, was entitled to one of four tax exemptions for the parties' children. Due to appellant's failure, the trial court was limited to the facts in the magistrate's decision; that decision noted several factors that reasonably supported granting one tax exemption to appellee and did not cite any facts indicating that appellee was not substantially current in child support or that he would not be able to take advantage of the tax exemption for one child. The trial court agreed with the magistrate and found it equitable to give appellee one tax exemption. Appellate review of the court's adoption of the magistrate's decision is limited to whether the court correctly applied the law to the facts in the magistrate's decision. The trial court did so here, relying on Civ.R. 53(D)(3)(b)(iii), which governs objections to magistrates' decisions where no transcript is filed, and R.C. 3119.82, which contains factors that are used to evaluate which party will be given tax exemptions when the parties disagree. Judgment affirmed.

Case Name: *State of Ohio v. Verlynia Murphy*
Case No: Clark C.A. No. 2023-CA-18; T.C. Case No. 22-CR-0405
Panel: Welbaum, Tucker, Huffman
Author: Mary K. Huffman
Summary: Appellant was convicted of failure to stop after an accident and reckless homicide. Appellant's vehicle left the public road and struck a utility pole, and she left the scene without her vehicle, but she was not involved in a motor vehicle accident or collision with persons or property upon a public road or highway. The fact that another driver

later fatally struck appellant's unoccupied vehicle in the roadway, where it had come to rest after hitting the pole, did not bring the incident within the ambit of the failure to stop statute, R.C. 4549.02, which addresses the exchange of identification and vehicle registration between parties to an accident or collision upon a public road. Accordingly, appellant's conviction for failure to stop was not supported by sufficient evidence and was against the manifest weight of the evidence. The conviction for failure to stop is reversed, including the license suspension imposed for that offense, and the matter is remanded for the trial court to file a judgment entry eliminating that offense. As such, we need not examine the trial court's imposition of consecutive sentences. In all other respects, judgment affirmed.

Case Name: *State of Ohio v. Allante Holland*
Case No: Montgomery C.A. No. 29791; T.C. Case No. 2022 CR 563
Panel: Welbaum, Tucker, Huffman
Author: Mary K. Huffman
Summary: Appellant's convictions for complicity to commit murder and other offenses were not against the manifest weight of the evidence. The trial court did not abuse its discretion in admitting certain autopsy photos, because their probative value outweighed the danger of unfair prejudice to appellant and they supported the testimony of the forensic pathologist regarding the circumstances of the victim's death. The trial court did not err in refusing to admit a pre-death photo of the victim, which was allegedly relevant to the victim's identity and character, as the victim's identity and character were not at issue. Prosecutorial misconduct is not demonstrated in closing argument, and the trial court did not err in denying appellant's motion for a mistrial or in declining to instruct the jury that appellant was the only one charged in the shooting; the prosecutor's statement regarding the other uncharged offenders' complicity was a correct statement of the law, and the court thereafter properly instructed the jury on complicity. The court did not improperly conclude that appellant's silence at sentencing amounted to a lack of remorse. The trial court failed to fulfill the notification requirements of R.C. 2929.19(B)(2)(c), the Reagan Tokes Act, in imposing the sentence for discharge of a firearm on or near prohibited premises; that conviction is reversed and remanded solely for resentencing in accordance with the statute. Judgment affirmed in all other respects.