

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
April 12, 2024

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Case Name: *State of Ohio v. Trevaughn Wallace*
Case No: Clark C.A. No. 2023-CA-53; T.C. Case No. 22-CR-0499
Panel: Epley, Tucker, Huffman
Author: Christopher B. Epley
Summary: The trial court did not err by sentencing appellant to a lengthy prison term as the sentences were not contrary to law and the record did not demonstrate that the trial court failed to consider the requisite sentencing factors. Judgment affirmed.

Case Name: *State of Ohio v. Marcellas L. Boulware*
Case No: Clark C.A. No. 2023-CA-32; T.C. Case No. 21CR0636
Panel: Welbaum, Lewis, Huffman
Author: Jeffrey M. Welbaum
Summary: The trial court did not abuse its discretion in overruling appellant's post-sentence motion to withdraw his guilty plea; the argument raised in the motion was barred by res judicata and otherwise lacked merit. Judgment affirmed.

Case Name: *State of Ohio v. Nathan A. Easter*
Case No: Greene C.A. No. 2023-CA-42; T.C. Case No. 2022CR0393
Panel: Epley, Tucker, Huffman
Author: Michael L. Tucker
Summary: Appellant was convicted of two counts of cruelty against a companion animal. Because police officers had been told by appellant's wife that appellant had shot and strangled the family dog and had heard a "wailing sound" which they believed was coming from the injured animal, the trial court reasonably concluded that exigent circumstances permitted the officers' warrantless entry into the home and yard to search for and provide aid to the injured dog. Appellant moved for a mistrial, asserting a *Brady* violation, when the State produced a videotape of appellant's wife's statement to a police officer during trial; however, because neither the videotape nor any proffer regarding its content is part of the record, we cannot conclude

that the late disclosure constituted a *Brady* violation or that it otherwise prejudiced appellant. Judgment affirmed.

Case Name: *State of Ohio v. Neil Segovia*
Case No: Clark C.A. No. 2023-CA-35; T.C. Case No. 23-CR-0247
Panel: Welbaum, Lewis, Huffman
Author: Mary K. Huffman
Summary: The trial court did not err in admitting evidence of a drug debt owed by the victim to appellant in appellant's trial for felonious assault. The evidence was admitted for the legitimate purpose of establishing appellant's identity and motive and not his propensity to commit crime, and the court gave a limiting instruction. Appellant's conviction was supported by sufficient evidence and not against the manifest weight of the evidence. Appellant's sentence is not contrary to law. Judgment affirmed.

Case Name: *S.E. v. D.I.*
Case No: Montgomery C.A. No. 29977; T.C. Case No. 2023 DV 00194
Panel: Epley, Tucker, Huffman
Author: Mary K. Huffman
Summary: The trial court did not abuse its discretion in granting a civil protection order, and the civil protection order was not against the manifest weight of the evidence. Explicit threats of domestic violence are not required in order to support a civil protection order; statements, conduct and actions, taken with all surrounding facts and circumstances, can constitute a threat. Judgment affirmed.

Case Name: *State of Ohio v. Kitana Newby*
Case No: Clark C.A. No. 2023-CA-30; T.C. Case No. 23-CR-109(B)
Panel: Epley, Tucker, Huffman
Author: Mary K. Huffman
Summary: Denial of the right to effective assistance of counsel is not demonstrated in defense counsel's joint representation of appellant and her co-defendant, where co-defendant was charged as the principal and appellant was charged by way of complicity in the same offenses. Appellant executed a waiver of conflict of interest prior to trial, the interests of appellant and her co-defendant were not incompatible and did not diverge, and the record does not demonstrate an actual conflict of interest. Ineffective assistance is not demonstrated in defense counsel's asserting self-defense on behalf of co-defendant but not appellant, where appellant did not use any force. Defense counsel's alleged egregious conduct in cross-examining the State's witnesses was a matter of trial strategy, and prejudice is not demonstrated. Moreover, the jury is presumed to have followed the court's instructions to disregard "editorializing" by defense counsel and that closing arguments were not evidence.

The trial court did not abuse its discretion in refusing to admit irrelevant evidence of the victim's prior speeding record. Appellant's argument that the trial court erred in not admitting the victim's Facebook video discussing the shooting is without merit because defense counsel did not seek to admit the video. The trial court did not abuse its discretion in refusing to instruct the jury on aggravated assault as an inferior offense of felonious assault; there was no evidence of serious provocation, and the inferior offense was inconsistent with the theory of self-defense. Appellant's conviction for complicity to attempted murder was supported by sufficient evidence and was not against the manifest weight of the evidence. Judgment affirmed.