

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
July 14, 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: *Janet Hild v. Samaritan Health Partner, et al.*
Case No: Montgomery C.A. No. 29652; T.C. Case No. 2018 CV 05710
Panel: Welbaum, Epley, Lewis
Author: Jeffrey M. Welbaum
Summary: The trial court erred in instructing the jury that members of the jury who did not find defendant negligent were prohibited from participating in the proximate cause determination. Further, this error was not harmless, because parties have a constitutional right to have a full jury determine all essential elements of their claims. The "same juror" rule, which states that a verdict is invalid unless the same jurors agree on all issues, did not apply, because inquiries about liability and damages are separate and independent, rather than interdependent. Thus, jurors who did not find that a party was negligent can still participate in deciding if the negligence was the proximate cause of an injury, and precluding them from doing so deprives a party of the right to a full jury trial. The trial court erred in denying the motion for a new trial on the basis that prohibiting certain jurors from participating in the determination of proximate cause was harmless error. The judgment denying a new trial is affirmed in part (as to the finding of negligence), reversed in part, and remanded for retrial on several issues, including proximate cause and total compensatory damages, if any, due to the negligence.

Case Name: *State of Ohio v. Matthew Austin Parrish*
Case No: Clark C.A. No. 2022-CA-89; T.C. Case No. 22-CR-286A
Panel: Tucker, Epley, Huffman
Author: Michael L. Tucker
Summary: The trial court did not err in imposing consecutive sentences for aggravated robbery and kidnapping. The trial court made the requisite findings to impose consecutive sentences, and the record does not clearly and convincingly fail to support those findings. The trial court's failure to merge aggravated robbery and kidnapping as allied offenses of similar import for sentencing did not constitute plain error. Appellant has not demonstrated ineffective assistance of

counsel predicated on his attorney's failure to raise the allied-offense issue below. Judgment affirmed.

Case Name: *Ida Stevenson v. Bill Dunn*
Case No: Greene C.A. No. 2023-CA-12; T.C. Case No. CVI2201419
Panel: Tucker, Lewis, Huffman
Author: Michael L. Tucker
Summary: Appellant brought a breach of contract action alleging that the parties had entered into an oral contract that required appellee to install a storm door for an agreed-upon fee and that appellee had not completed the contract. A magistrate found that appellee had breached the contract but that appellant had failed to prove the damage she sustained. No objections were filed, and the trial court adopted the magistrate's decision and entered judgment in appellee's favor. Because no objections were filed, appellate review is restricted to plain error review. However, appellant has not made a transcript of the magistrate's hearing a part of the appellate record. Without a transcript, the regularity of the proceedings must be presumed, and we can find no plain error. Judgment affirmed.

Case Name: *Amilia Sami v. Tanya Geiger*
Case No: Montgomery C.A. No. 29723; T.C. Case No. 2022 CV 05468
Panel: Tucker, Lewis, Huffman
Author: Mary K. Huffman
Summary: Appellant failed to timely object to the trial court's adoption of the magistrate's decision denying her petition for a civil stalking protection order before filing this appeal, as required by Civ.R. 65.1(G). Accordingly, appellant may not appeal from the trial court's judgment. Appellant's alleged errors cannot be considered under the plain error doctrine because Civ.R. 65.1, unlike Civ.R. 53(D)(3)(b)(iv), does not provide for plain error review if a party fails to object in the trial court. Appeal dismissed.