

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
September 22, 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. Jona Cenexant*
Case No: Clark C.A. No. 2023-CA-11; T.C. Case No. 22 CRB 00545
Panel: Welbaum, Lewis, Huffman
Author: Ronald C. Lewis
Summary: Appellant waived all but plain error by failing to object at trial to an interpreter's qualifications and performance and to the trial court's supplemental jury instruction. Appellant failed to establish that any error by the trial court affected the outcome of the trial. Judgment affirmed.

Case Name: *State of Ohio v. David Boyle*
Case No: Greene C.A. No. 2023-CA-16; T.C. Case No. 2013 CR 0042
Panel: Welbaum, Epley, Lewis
Author: Jeffrey M. Welbaum
Summary: The trial court properly denied appellant's postconviction "Motion Pursuant to Criminal Rule 52(B) Plain Error" because: 1) the plain-error standard under Crim.R. 52(B) is only available on direct appeal, and thus does not apply to appellant's motion; 2) to the extent that appellant's motion is a petition for postconviction relief, the trial court lacked jurisdiction to consider the motion due to its being an untimely and successive petition for postconviction relief; and (3) the doctrine of res judicata barred a majority of the claims raised in the motion. Judgment affirmed.

Case Name: *Jason Tillman, et al. v. City of Piqua Bd. of Zoning Appeals*
Case No: Miami C.A. No. 2023-CA-3; T.C. Case No. 22 CV 456
Panel: Tucker, Epley, Huffman
Author: Michael L. Tucker
Summary: Appellants filed an administrative appeal in the common pleas court contesting an order requiring the demolition of their fire-damaged home, but they did not file a transcript of the administrative hearing. The common pleas court did not err in dismissing the administrative

appeal in light of the failure to file a transcript. Moreover, appellants did not seek a stay of the demolition order while they appealed, and the home has been razed. As such, the appeal is moot, because we cannot grant any effective relief to appellants. Appeal dismissed.

Case Name: *In the Matter of I.C.*
Case No: Champaign C.A. No. 2023-CA-1; T.C. Case No. 2022 JG 15
Panel: Welbaum, Lewis, Huffman
Author: Mary K. Huffman
Summary: The trial court did not err in conducting a hearing on a collateral matter (appellee's request for attorney fees) after the parties' agreed voluntary dismissal of appellant's action without prejudice. However, the trial court abused its discretion in awarding attorney fees without stating its basis for awarding the fees or hearing any evidence about the reasonableness or amount of the fees. Judgment reversed with respect to the attorney fee award and remanded for further proceedings. In all other respects, judgment affirmed.

Case Name: *State of Ohio v. Shon Ballard*
Case No: Champaign C.A. No. 2023-CA-8; T.C. Case No. 2022 CR 128
Panel: Welbaum Lewis, Huffman
Author: Mary K. Huffman
Summary: The trial court did not err in admitting as a court's exhibit the narrative portion only of the presentence investigation report ("PSI") of appellant's co-defendant, which contained a "comprehensive accounting" of appellant's offenses. Appellant's PSI lacked information relating to his offenses, and the parties and the court were aware of all the information contained in the co-defendant's PSI through discovery. Further, the court gave the parties an opportunity to review the exhibit prior to sentencing. Ineffective assistance of counsel is not demonstrated in counsel's failure to object to the admission of the exhibit. Judgment affirmed.

Case Name: *State of Ohio v. Jewell Antoine Armstrong-Carter*
Case No: Montgomery C.A. No. 29737; T.C. Case No. 2022 CR 01229
Panel: Tucker, Epley, Huffman
Author: Christopher B. Epley
Summary: The trial court did not err when it found appellant guilty of having weapons while under disability; he had a previous felony drug conviction which prohibited him from having a firearm, and he had had constructive possession of a weapon. In addition, the parties stipulated that there was a transcription error as to the length of appellant's driver's license suspension. The court's actual imposition of a ten-year suspension was not an error. Judgment affirmed.

Case Name: *State of Ohio v. Lewis D. Bradfield*
Case No: Montgomery C.A. No. 29701; T.C. Case No. 22-CRB-2633
Panel: Tucker, Epley, Huffman
Author: Christopher B. Epley
Summary: Appellant's conviction for disorderly conduct was not supported by sufficient evidence; the State failed to prove that appellant engaged in conduct or created a condition that presented a risk of physical harm to himself or another, or to the property of another, while intoxicated. Judgment vacated.