

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
September 8, 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: *In the Matter of the Adoption of M.L.K., a Minor*
Case No: Montgomery C.A. No. 29748; T.C. Case No. 2022 ADP 00053
Panel: Tucker, Epley, Huffman
Author: Mary K. Huffman
Summary: Father waived his constitutional challenges to R.C. 3107.07(K), which sets forth circumstances in which a parent's consent to the adoption of his or her biological child is not required, by not raising them in the probate court. He also failed to object within 14 days of the notice of the petition for adoption. The notice of the petition for adoption informed Father of the requirement to file objections, and the language was not misleading. The probate court erred, however, in granting summary judgment in favor of Petitioner on his petition for adoption, because a genuine issue of material fact existed regarding whether or not Father was properly served with notice of the hearing on the petition. Judgment reversed and remanded.

Case Name: *In re J.H., L.H., C.H.*
Case No: Montgomery C.A. No. 29697;
T.C. Case Nos. G-2015-001837-0k,0M,0S; G-2015-001838-0L,0N,0T; G-2020-002205-0I, 0J, 0Q
Panel: Tucker, Epley, Huffman
Author: Mary K. Huffman
Summary: Father appeals from the juvenile court's order which granted the motions of Montgomery County Children's Services ("MCCS") for a first and second extension of temporary custody of Father's children to MCCS, dismissed as moot Father's emergency motion to prevent the children's move to Georgia to live with Paternal Grandmother, and denied Father's motion for legal custody. Because the extensions of temporary custody had expired and the children remained in MCCS's custody pending disposition of other motions related to their custody, any argument that the juvenile court erred in granting the extensions of temporary custody is moot. The juvenile court reasonably concluded that Father's argument that the magistrate had erred in failing to hear his emergency motion in a

timely manner was also moot. The juvenile court did not abuse its discretion in denying Father's motion for legal custody, as he had not completed his case plan objectives. Father did not object in the trial court to the exclusion of exhibits related to a drug screen and his income and therefore waived all but plain error, which is not demonstrated. Judgments affirmed.

Case Name: *State of Ohio v. Nathaniel Newman*
Case No: Clark C.A. No. 2023-CA-21; T.C. Case No. 22-CR-0463
Panel: Welbaum, Epley, Lewis
Author: Christopher B. Epley
Summary: The trial court did not err by imposing a judicial sanction as appellant's arrest for possessing methamphetamine violated the terms of his post-release control. R.C. 2929.141 states that a consecutive 12-month prison term is appropriate for a felony post-release control violation. Judgment affirmed.

Case Name: *Nationstar Mortgage LLC, dba Mr. Cooper v. Andrew S. Anderson, et al.*
Case No: Montgomery C.A. No. 29716; T.C. Case No. 2020 CV 01004
Panel: Welbaum, Epley, Lewis
Author: Ronald C. Lewis
Summary: The trial court did not err in granting summary judgment to appellee-mortgagee on its complaint for foreclosure where there was no genuine issue of material fact that the mortgagee had standing, and the mortgagor had defaulted on the loan. Judgment affirmed.

Case Name: *State of Ohio v. Marcus S. Johnson*
Case No: Greene C.A. No. 2023-CA-5; T.C. Case No. 22 CRB01109
Panel: Welbaum, Lewis, Huffman
Author: Jeffrey M. Wellbaum
Summary: The trial court committed plain error by convicting appellant of criminal child enticement in violation of R.C. 2905.05(A), because the Supreme Court of Ohio declared that statute unconstitutional in *State v. Romage*, 138 Ohio St.3d 390, 2014-Ohio-783, 7 N.E.3d 1156. Judgment vacated.

Case Name: *In the Matter of C.W.*
Case No: Clark C.A. No. 2023-CA-13; T.C. Case No. 20131573
Panel: Tucker, Epley, Huffman
Author: Michael L. Tucker
Summary: The record contains clear and convincing evidence supporting the trial court's decision to grant a children services agency permanent custody of appellant's minor child. Judgment affirmed.