

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
November 27, 2024

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Case Name: *State of Ohio v. Demietrus D. Scott*
Case No: Clark C.A. No. 2023-CA-73; T.C. Case No. 21-CR-151B
Panel: Welbaum, Lewis, Huffman
Author: Mary K. Huffman
Summary: Appellant was found guilty of murder as a proximate result of felonious assault with a deadly weapon, pursuant to a theory that he had acted in complicity with the principal offender; he was found not guilty of the predicate felonious assault offense and accompanying firearm specifications. The allegedly inconsistent verdicts do not compel reversal of the murder conviction, because sufficient evidence supported the jury's felony murder verdict. The jury instruction for felony murder was not improper; that offense does not contain a mens rea element, and the jury was properly instructed on the knowingly element of the underlying felonious assault charge. Counsel did not provide ineffective assistance in failing to object to the jury instructions or to move for a new trial on the basis of the inconsistent verdicts. Judgment affirmed.

Case Name: *State of Ohio v. Austin Dyson*
Case No: Montgomery C.A. No. 30228; T.C. Case No. 2022 CR 0316
Panel: Epley, Welbaum, Tucker
Author: Christopher B. Epley
Summary: State's appeal. The trial court did not err in sustaining appellee's motion to suppress. Appellee's possession of a pocketknife did not justify a *Terry* pat-down for weapons, absent additional indicia that he was armed and dangerous. Judgment affirmed. (Welbaum, J., dissenting.)

Case Name: *In re L.R., S.R., A.R., A.R., O.R.*
Case No: Montgomery C.A. No. 30113;
T.C. Case Nos. C-2021-002547-0U; C-2021-002550-0S, C-2021-002552-0V; C-2021-002548-0V; C-2021-002551-0V
Panel: Epley, Welbaum, Lewis
Author: Christopher B. Epley
Summary: The trial court's decision to terminate appellant's parental rights and grant custody of his minor children to a children's services agency was not against the manifest weight of the evidence and was supported by the weight of the evidence. Judgments affirmed.

Case Name: *State of Ohio v. Michael Wood*
Case No: Clark C.A. No. 2022-CA-36; T.C. Case No. 21 TRD 06293
Panel: Tucker, Lewis, Huffman
Author: Ronald C. Lewis
Summary: Appellate counsel provided ineffective assistance by failing to argue on direct appeal that appellant's speedy trial rights had been violated. The trial court erred in failing to grant appellant's motion to dismiss based on a violation of his statutory right to a speedy trial. Judgment vacated.

Case Name: *State of Ohio v. Jerry S. Jack*
Case No: Greene C.A. No. 2024-CA-27; T.C. Case No. 24CRB00044
Panel: Epley, Lewis, Huffman
Author: Ronald C. Lewis
Summary: The trial court committed plain error by not calculating and notifying appellant of the amount of jail-time credit to which he was entitled. The trial court did not err in denying appellant's Crim.R. 29 motion; there was sufficient evidence to support his conviction for domestic violence. The trial court did not abuse its discretion in permitting the introduction of the video footage of the victim's statements to officers from a police officer's body camera pursuant to the excited utterance exception under Evid.R. 803(2). Judgment affirmed in part, reversed in part, and remanded for resentencing on jail-time credit only.

OPINION RENDERED NOVEMBER 22, 2024

Case Name: *In re Adoption of D.W.D.-H*
Case No: Clark C.A. No. 2023-CA-68; T.C. Case No. 20225041
Panel: Welbaum, Tucker, Huffman
Author: Mary K. Huffman
Summary: The trial court abused its discretion in determining that adoption was not in the best interest of the child, and its denial of the petition for adoption was against the manifest weight of the evidence. Judgment reversed; remanded for the trial court to grant the petition for adoption.

DECISION AND FINAL JUDGMENT ENTRY RENDERED NOVEMBER 25, 2024

Case Name: *State ex rel. Madden v. Sexton*
Case No. Montgomery C.A. No. 30086
Panel: Epley, Welbaum, Lewis
Author: Per Curiam
Summary: Relator has no clear legal right to her former office of municipal manager because her removal was lawfully accomplished by the affirmative vote of a majority of the village council. Relator cannot oust the current incumbent because she has not demonstrated that he holds the office unlawfully. Writ of quo warranto denied.