

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
December 20, 2024

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Name: *State of Ohio v. Jaquanta Denise Harris*
Case No: Montgomery C.A. No. 30174; T.C. Case No. 2023 CR 1432
Panel: Welbaum, Lewis, Huffman
Author: Ronald C. Lewis
Summary: State's appeal. The trial court did not err in granting appellee's motion to suppress evidence obtained from a traffic stop at which the police officer did not have probable cause to arrest appellee for driving under the influence. Judgment affirmed.

Case Name: *William Bogan v. Montgomery Cty. Auditor, et al.*
Case No: Montgomery C.A. No. 30226; T.C. Case No. 2024 CV 03294
Panel: Epley, Welbaum, Lewis
Author: Ronald C. Lewis
Summary: The trial court did not err in granting appellee's motion to dismiss appellant's complaint pursuant to Civ.R. 12(B)(6) where appellant failed to state a claim upon which relief could be granted. Appellant attempts to re-litigate the same facts and legal arguments he raised in *Bogan v. Keith*, 2023-Ohio-4159 (2d Dist.), and we again reject those arguments for the reasons set forth in that opinion. Judgment affirmed.

Case Name: *State of Ohio v. Stephanie Brandenburg*
Case No: Montgomery C.A. No. 30116; T.C. Case No. 2023 CR 02695
Panel: Epley, Welbaum, Tucker
Author: Jeffrey M. Welbaum
Summary: The trial court did not err by failing to hold a restitution hearing or by failing to award the victim restitution under Marsy's Law; the victim never requested restitution or a restitution hearing during the trial court proceedings, but instead conveyed its belief that restitution was not recoverable due to its having received an insurance payment for the economic loss sustained as a result of the criminal conduct. Appellant is prohibited from requesting restitution for the first time on

appeal and, under the circumstances of this case, cannot demonstrate that the trial court's failure to award restitution amounted to plain error. Also, a restitution hearing was not necessary or required because appellant did not dispute the trial court's failure to award it restitution at the sentencing hearing. Judgment affirmed.

Case Name: *Brandy A. Rogers v. Curtis M. Rogers, et al.*
Case No: Montgomery C.A. No. 30172; T.C. Case No. 2023 MSC 00337
Panel: Epley, Welbaum, Lewis
Author: Jeffrey M. Welbaum
Summary: The trial court erred in finding an alleged lost will remained valid and in dismissing appellant's will contest action. Although admission of the will was prima facie evidence of its validity, appellant rebutted the presumption and proved by a preponderance of the evidence that the will failed to comply with statutory formalities. The content of the alleged lost will also could not be proven because a page was missing. Judgment reversed and remanded.

Case Name: *State of Ohio v. Aaron Michael Francis aka Aaron Michael Frances*
Case No: Champaign C.A. No. 2024-CA-8; T.C. Case No. 2023 CR 222
Panel: Epley, Welbaum, Lewis
Author: Jeffrey M. Welbaum
Summary: Appellant's prosecutorial misconduct claim is without merit because he cannot establish that the alleged misconduct by the State during sentencing had any effect on the trial court's sentencing decision. Appellant's claim that the omission of forfeiture specifications in his indictment prohibited the trial court from ordering the forfeiture of certain property lacks merit; the statutory provisions governing forfeiture do not apply when, as here, the forfeiture was agreed to as part of appellant's negotiated plea agreement. Judgment affirmed.

Case Name: *L.H. Hipshire, by and through his natural mother and legal guardian, Kelly Hipshire v. Oakwood Village, et al.*
Case No: Montgomery C.A. No. 30045; T.C. Case No. 2021 CV 03096
Panel: Welbaum, Tucker, Lewis
Author: Michael L. Tucker
Summary: Appellant and her minor son lived in a manufactured-home community owned by appellee; the community included a playground owned and controlled by appellee, and tenants' dogs were allowed in the playground. While in the playground, appellant's son was bitten by a dog brought to the playground by another child who also lived in the community. Because appellee owned and controlled the playground and tenants' dogs were allowed in this space, appellee was a harbinger of the dog when it bit appellant's son. As a harbinger under R.C. 955.28, appellee was strictly liable for the

injuries sustained by appellant's son. The trial court erred in sustaining appellee's motion for summary judgment and in overruling appellant's motion for partial summary judgment. Judgment reversed and remanded. (Welbaum, J., dissenting.)

Case Name: *Michell L. Mason v. James C. Mason*
Case No: Montgomery C.A. No. 30216; T.C. Case No. 2022 DR 840
Panel: Tucker, Lewis, Huffman
Author: Michael L. Tucker
Summary: In a divorce action, appellant-husband was initially granted permission to add appellee-wife's parents as party defendants under Civ.R. 75(B)(1). The parents owned the home in which couple had lived, and appellant asserted that he had a marital equitable interest in the home because marital funds had been used to improve and maintain the home. The domestic relations court later determined that appellant and appellee had no marital interest in the home. As such, the court properly dismissed the parents as party defendants, because the court lacked subject matter jurisdiction to adjudicate appellant's claim against the parents. Judgment affirmed.

Case Name: *Cecilia M. Hammond (Wolfe) v. Matthew G. Hammond*
Case No: Montgomery C.A. No. 30235; T.C. Case No. 2020 DR 00236
Panel: Epley, Welbaum, Tucker
Author: Michael L. Tucker
Summary: After a magistrate found appellee-mother in contempt of court, the trial court sustained appellee's objections to the magistrate's decision, finding that her alleged failure to follow a parenting time order had not constituted disobedience of the parenting time order. On the facts presented, the trial court did not abuse its discretion in reaching this conclusion. Judgment affirmed.

Case Name: *Sonnenberg Mut. Ins. Co. v. Valecia Shelton*
Case No: Montgomery C.A. No. 30186; T.C. Case No. 2024 CV 01078
Panel: Tucker, Lewis, Huffman
Author: Mary K. Huffman
Summary: The trial court did not err in striking the pleading and motions filed by appellant's nonlawyer fiancé on her behalf, as he was not a party to this action or authorized to practice law. The trial court also did not err in granting appellee's motion for default judgment, because appellant had not appeared or otherwise defended. Judgment affirmed.

Case Name: *Tara Brown v. KRW Plumbing, Inc., et al.*
Case No: Montgomery C.A. No. 30080; T.C. Case No. 2017 CV 05453
Panel: Epley, Welbaum, Byrne
Author: Christopher B. Epley
Summary: The trial court did not err by granting summary judgment to appellee. There was no evidence in the record that could lead a reasonable person to believe that appellee exercised control over a critical variable in the workplace that led to appellant's decedent's death. Judgment affirmed.