

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
December 3, 2021

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Case Name: *State of Ohio v. Daniel Evers*
Case No: Clark App. No. 2021-CA-27; T.C. Case No. 2020-CR-610
Panel: Tucker, Donovan, Epley
Author: Michael L. Tucker
Summary: The trial court sentenced appellant to a 30-month prison term for aggravated possession of drugs. Because the record reflects the trial court's consideration of R.C. 2929.11 and R.C. 2929.12, there is no basis upon which to modify or vacate the sentence because it is not supported by R.C. 2929.11 and R.C. 2929.12. Further, appellant's sentence is not subject to modification or vacation based upon a conclusion that the sentence is contrary to law because it is not supported under R.C. 2929.11 or R.C. 2929.12. Finally, there is no merit to appellant's argument that the trial court impermissibly imposed a harsher sentence based upon a conclusion that appellant had been leniently sentenced in previous cases. Judgment affirmed.

Case Name: *State of Ohio v. Robert King*
Case No: Champaign App. No. 2021-CA-18; T.C. Case No. 21-CRB-25
Panel: Tucker, Donovan, Epley
Author: Mary E. Donovan
Summary: Ineffective assistance of counsel is not demonstrated by counsel's failure to call an expert witness to opine that appellant's prior surgery rendered him incapable of inflicting injury to the victim in the manner described by her. Even if the victim's testimony that appellant "goes and gets different surgeries to get prescription medication" should not have been admitted, the municipal court is presumed to have considered only competent evidence relevant to the domestic violence offense. Judgment affirmed.

Case Name: *State of Ohio v. Ronica King*
Case No: Montgomery App. No. 29137; T.C. Case No. 2020-CR-2807/1
Panel: Tucker, Donovan, Epley
Author: Mary E. Donovan
Summary: The State adduced sufficient evidence at trial to support findings of appellant's guilt for felonious assault and domestic violence, and the guilty verdicts were not against the manifest weight of the evidence. Based upon our holding in *State v. Wilson*, 2d Dist. Clark No. 2018-CA-2, 2020-Ohio-2962, as applied to the facts of this case, the trial court's failure to merge the felonious assault and domestic violence offenses constituted plain error. Judgment affirmed in part, reversed in part, and remanded for resentencing.

Case Name: *State of Ohio v. Jesse Lamar Shepherd*
Case No: Montgomery App. No. 29123; T.C. Case No. 2019-CR-4172
Panel: Tucker, Donovan, Epley
Author: Christopher B. Epley
Summary: The trial court did not err by overruling appellant's motion to suppress identification evidence, as the identification process was neither unreliable nor unduly suggestive. However, the trial court did err by failing to give appellant his right of allocution at sentencing. Judgment affirmed in part, reversed in part, and remanded to the trial court for the sole purpose of resentencing in compliance with Crim.R. 32(A)(1).