

**THE COURT OF APPEALS OF OHIO  
SECOND APPELLATE DISTRICT  
CASE SUMMARIES  
May 10, 2019**

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 re J.N., M.N., I.N.*  
Case No: Montgomery App. No. 28247; T.C. Case Nos. 2011-10072, 2011-10075 and 2011-10076  
Panel: Donovan, Froelich, Tucker  
Author: Michael L. Tucker  
Summary: The juvenile court's judgment granting permanent custody of three children to a county children services agency was supported by competent, credible evidence. Judgment affirmed.

Case Name: *R.C. Wiesenmayer, Administrator of the Estate of Margaret S. Edwards, et al. v. Helen Catherine Vaspor, et al.*  
Case No: Montgomery App. No. 27931; T.C. Case No. 2016-MS-00402  
Panel: Froelich, Hall, Tucker  
Author: Michael L. Tucker  
Summary: The Ohio Department of Medicaid had statutory authority to file a lien against the real property of a Medicaid beneficiary after the beneficiary's death. Therefore, the probate court held correctly that the lien was valid and should be satisfied pursuant to the provisions of R.C. 2127.18, 2127.19 and 2127.38. Judgment affirmed. (Hall, J., concurring.) (Froelich, J., dissenting.)

Case Name: *Dawn A. Gibson v. Robert J. Gibson*  
Case No: Montgomery App. No. 28171; T.C. Case No. 2011-DR-1008  
Panel: Welbaum, Donovan, Hall  
Author: Mary E. Donovan  
Summary: The trial court did not err in reducing appellee's spousal support obligation due to a change in circumstances or in failing to enforce a suspended sentence for contempt for failure to pay spousal support. Judgment affirmed.

Case Name: *State of Ohio v. Tyrone Moore*  
Case No: Montgomery App. No. 28094; T.C. Case No. 2018-CR-1524  
Panel: Welbaum, Donovan, Hall  
Author: Mary E. Donovan  
Summary: The record establishes that appellant's convictions for failure to comply with the order or signal of a police officer and obstructing official business were not against the manifest weight of the evidence. The trial court did not violate appellant's due process rights when it conducted an inquiry regarding whether he intended to testify at trial. Judgment affirmed.

Case Name: *State of Ohio v. Ronald G. Johnson*  
Case No: Montgomery App. No. 28162; T.C. Case No. 2004-CR-2082  
Panel: Welbaum, Donovan, Hall  
Author: Michael T. Hall  
Summary: The trial court did not err by overruling appellant's motion to vacate judgment based on appellant's argument that the Ohio Bureau of Sentence Computation (BSC) miscalculated his sentence. The trial court had no authority to address the BSC's sentence calculation, and the motion to vacate was not the proper way to challenge the calculation. The trial court also did not err by overruling appellant's motion to subpoena records from the BSC. Because the trial court's jurisdiction was not properly invoked, appellant had no right to have documents subpoenaed. Judgment affirmed.

Case Name: *State of Ohio v. Diamond McClanahan*  
Case No: Clark App. No. 2018-CA-78; T.C. Case No. 2018-CR-201  
Panel: Welbaum, Donovan, Hall  
Author: Michael T. Hall  
Summary: The record does not clearly and convincingly fail to support the appellant's seven-year prison term for manufacturing fentanyl. At sentencing, the trial court did not improperly "invent" victims who may have been harmed by purchasing fentanyl from the appellant. The appellant's seven-year prison sentence for manufacturing fentanyl does not constitute cruel and unusual punishment. Judgment affirmed.

Case Name: *State of Ohio v. Joseph Kenyon Allen*  
Case No: Montgomery App. No. 28078; T.C. Case No. 2017-CR-3944  
Panel: Welbaum, Donovan, Hall  
Author: Michael T. Hall  
Summary: The trial court did not err in overruling the appellant's motion to suppress a handgun found when police executed a warrantless

search of an apartment he shared with his mother. The evidence supported the trial court's finding that the appellant's mother voluntarily consented to the search. The State presented legally sufficient evidence to prove the "possession" element of having a weapon while under disability. Statements by the appellant's mother in jail telephone calls with him were not offered for the truth of the matter asserted and were not material to his guilt or innocence. Therefore, the statements were not hearsay or prejudicial, and no Confrontation Clause violation occurred at trial. Judgment affirmed.

Case Name: *Marjorie Montgomery v. Joel B. Montgomery*  
Case No: Greene App. Nos. 2018-CA-16 and 2018-CA-19; T.C. Case No. 2015-DR-198  
Panel: Welbaum, Donovan, Hall  
Author: Jeffrey M. Welbaum  
Summary: The trial court did not abuse its discretion by awarding appellee/cross-appellant one-third of the proceeds from the sale of a gun collection or in requiring appellant to pay credit card debt that was incurred during the marriage. In addition, the trial court did not abuse its discretion by failing to award appellee/cross-appellant one-half of the cash that appellant borrowed for medical treatment and then paid back to the persons who had advanced the money. Finally, the court did not abuse its discretion by failing to award appellee/cross-appellant one-half of the proceeds of the gun sales. Judgment affirmed.

Case Name: *State of Ohio v. David Lee Caserta*  
Case No: Montgomery App. No. 28300; T.C. Case No. 2018-CR-3192  
Panel: Welbaum, Donovan, Hall  
Author: Jeffrey M. Welbaum  
Summary: Appellant's sentence is contrary to law because the trial court imposed both a prison term and a community control sanction in the form of a no contact order for his felonious assault offense. Judgment modified to vacate the no contact order. Judgment affirmed as modified.