

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
August 2, 2024

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Case Name: *State of Ohio v. Octavius Lamont Humphrey*
Case No: Montgomery C.A. No. 29879;
T.C. Case Nos. 2020 CR 03714; 2020 CR 03896
Panel: Epley, Lewis, Huffman
Author: Ronald C. Lewis
Summary: The trial court did not abuse its discretion in denying appellant's petitions for postconviction relief where he failed to set forth substantive grounds for relief or his claims were barred by res judicata. Judgments affirmed.

Case Name: *April D. Thiery (Smiles) v. William F. Thiery*
Case No: Montgomery C.A. No. 29936; T.C. Case No. 2018 DR 00958
Panel: Epley, Welbaum, Lewis
Author: Ronald C. Lewis
Summary: The trial court did not abuse its discretion by finding appellant in contempt for failing to pay spousal support. Appellant's argument that the trial court should not have included his federal disability income in the spousal support calculation was barred by res judicata, because he did not appeal from the final judgment and decree of divorce. The trial court did not violate appellant's right to due process by ruling on his objections to a magistrate's decision without waiting for a transcript, when appellant had not paid the requisite deposit for the transcript. Judgment affirmed.

Case Name: *State of Ohio v. Amanda L. Terry*
Case No: Montgomery C.A. No. 29972;
T.C. Case Nos. TRC 2200947 A-C; CRB 2200364 A-C
Panel: Welbaum, Tucker, Huffman
Author: Mary K. Huffman
Summary: Appellant's conviction for operating a vehicle while under the influence was supported by sufficient evidence and was not against the manifest weight of the evidence. The evidence established that she drove erratically, struck a guardrail and another vehicle, was

belligerent, failed or did not complete field sobriety tests, and exhibited other signs of intoxication. The state trooper did not testify as an expert about damage to appellant's vehicle; therefore Crim.R. 16 did not apply. Because forensic evaluations found appellant to have been sane at the time of the offenses and competent to stand trial, the trial court did not abuse its discretion in excluding as irrelevant evidence related to prior injuries appellant had suffered. After appellant attempted to subvert the trial court's ruling by asserting that her belligerent conduct was a result of her prior diagnoses, the State's limited follow-up questioning did not constitute prosecutorial misconduct. The trial court did not err in overruling appellant's post-trial motion for acquittal, which was based on the trooper's failure to preserve a bottle of liquor that was in appellant's car and the receipt for its purchase. Appellant asserted that these items would have been exculpatory based on her claim that she only drank from the bottle after the accident, but she was not charged with an open container violation, and therefore the bottle was not contraband subject to seizure. Defense counsel did not act ineffectively in failing to request a psychological expert. The trial court did not abuse its discretion in imposing sentence. Judgment affirmed.

Case Name: *State of Ohio v. Michael D. Harwell*
Case No: Montgomery C.A. No. 30004; T.C. Case No. 2012 CR 02367
Panel: Epley, Tucker, Huffman
Author: Mary K. Huffman
Summary: The trial court did not err in denying appellant's second post-conviction application for DNA testing under R.C. 2953.72(A)(7), because his first application was denied due to his failure to satisfy at least one of the criteria in R.C. 2953.74(C). Judgment affirmed.