

**THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
September 17, 2021**

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: *State of Ohio v. Jashon Robinson*
Case No: Clark App. No. 2021-CA-3; T.C. Case No. 2020-CR-221
Panel: Donovan, Hall, Welbaum
Author: Michael T. Hall
Summary: The jury's finding appellant guilty of murder, felonious assault, and felony murder, rather than the inferior offenses of voluntary manslaughter, aggravated assault, and involuntary manslaughter, was not against the manifest weight of the evidence. Appellant failed to prove a mitigating circumstance. Appellant also fails to show that trial counsel performed deficiently in defending him. Judgment affirmed.

Case Name: *State of Ohio v. Scott Douglas O'Donnell*
Case No: Champaign App. No. 2020-CA-26; T.C. Case No. 2020-CR-89
Panel: Tucker, Welbaum, Epley
Author: Jeffrey M. Welbaum
Summary: Appellant's conviction for grand theft in violation of R.C. 2913.02(A)(2) was not supported by sufficient evidence where the State failed to present any evidence at trial to establish that appellant intended to deprive his clients of the money they gave him to complete their home construction project. Judgment of conviction vacated.

Case Name: *Michelle Peterson v. Securitas Security Service, et al.*
Case No: Montgomery App. No. 29094; T.C. Case No. 2020-CV-2903
Panel: Donovan, Hall, Welbaum
Author: Jeffrey M. Welbaum
Summary: The trial court did not err in affirming the Unemployment Compensation Review Board's decision that appellant was discharged for just cause. The record indicates that appellant failed to appear for work and was discharged in accordance with company policy. Judgment affirmed.

Case Name: *State of Ohio v. Matthew J. McComb*
Case No: Montgomery App. No. 28946; T.C. Case No. 2020-CRB-1131
Panel: Donovan, Hall, Welbaum
Author: Jeffrey M. Welbaum
Summary: Appellant's conviction for criminal damaging was not against the manifest weight of the evidence. Judgment affirmed.

Case Name: *Wendy Branscum v. Scott Edward Sullenberger, et al.*
Case No: Champaign App. No. 2020-CA-23; T.C. Case No. 2017-DR-99
Panel: Tucker, Welbaum, Epley
Author: Michael L. Tucker
Summary: The trial court did not abuse its discretion in awarding attorney fees and expenses based on appellant's contempt; the fees and expenses related either to activity which culminated in appellant admitting she was in contempt of court or to activity to enforce the resulting contempt order. Moreover, the trial court did not abuse its discretion regarding the amount of the award. Judgment affirmed.

Case Name: *State of Ohio v. Larry James Gapen*
Case No: Montgomery App. No. 28808; T.C. Case No. 2000-CR-2945
Panel: Tucker, Hall, Epley
Author: Christopher B. Epley
Summary: The trial court did not abuse its discretion when it overruled appellant's motion for leave to file a delayed motion for a new trial. The trial court did not err in finding that appellant failed to establish by clear and convincing evidence that he was unavoidably prevented from discovering the grounds for his claims. Likewise, the trial court did not err in finding that appellant failed to act within a reasonable time or to adequately explain the delay in filing his motion for leave. Finally, the court did not abuse its discretion when it did not rule on the merits of appellant's claims. Judgment affirmed.