

**THE COURT OF APPEALS OF OHIO**  
**SECOND APPELLATE DISTRICT**  
**CASE SUMMARIES**  
**September 23, 2022**

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. Josiah Jones*  
Case No: Montgomery App. No. 29362; T.C. Case No. 2020-CR-3983  
Panel: Tucker, Donovan, Welbaum  
Author: Mary E. Donovan  
Summary: The trial court did not err by sentencing appellant to prison without making specific findings regarding whether he had rebutted the statutory presumption of incarceration that applies to a conviction for gross sexual imposition (victim under 13). Additionally, the trial court did not err in its analysis of the sentencing factors set forth in R.C. 2929.11 and R.C. 2929.12 when it sentenced appellant to an aggregate prison term of 60 months. Thus, appellant cannot demonstrate that his sentence was clearly and convincingly contrary to law. Judgment affirmed.

Case Name: *State of Ohio v. Daniel A. Bocock*  
Case No: Montgomery App. No. 29421; T.C. Case No. 2021-CR-4217  
Panel: Tucker, Donovan, Lewis  
Author: Mary E. Donovan  
Summary: Conceded error. The trial court erred in imposing a 36-month sentence after inducing appellant's guilty pleas with a promise of community control sanctions. Judgment reversed and remanded.

Case Name: *In re: A.L.M. & A.S.*  
Case No: Montgomery App. No. 29472;  
T.C. Case Nos. G-2020-1448-0F, 0K; G-2020-1450-0E, 0K  
Panel: Tucker, Epley, Lewis  
Author: Christopher B. Epley  
Summary: The trial court did not abuse its discretion when it awarded legal custody to the fathers of two minor children, as doing so was in the best interest of the children. Judgment affirmed.

Case Name: *State of Ohio v. Aneminee Patton*  
Case No: Montgomery App. No. 29384; T.C. Case No. 2021-CRB-3858  
Panel: Tucker, Donovan, Lewis  
Author: Ronald C. Lewis  
Summary: The trial court did not abuse its discretion in excluding hearsay testimony objected to by the State during trial. Further, the trial court's exclusion of the testimony did not affect appellant's substantial rights because the same testimony was later admitted into evidence. Judgment affirmed.

Case Name: *State of Ohio v. Katie Ford-Delay*  
Case No: Montgomery App. No. 29310; T.C. Case No. CRB2100087  
Panel: Tucker, Donovan, Welbaum  
Author: Jeffrey M. Welbaum  
Summary: Appellant's conviction for possessing drug abuse instruments in violation of R.C. 2925.12(A) was not supported by sufficient evidence, as the State failed to present evidence establishing that appellant used the drug abuse instruments in question to unlawfully administer or use a dangerous drug or to prepare a dangerous drug for unlawful administration or use. Judgment vacated.

Case Name: *In re M.S. and K.B.*  
Case No: Montgomery App. No. 29441;  
T.C. Case Nos. G-2018-004061-0F,0I and G-2019-002912-0F,0I  
Panel: Tucker, Donovan, Welbaum  
Author: Jeffrey M. Welbaum  
Summary: The trial court's judgment awarding legal custody of Father's children to the children's paternal grandmother was not an abuse of discretion where the trial court reasonably determined that granting legal custody to paternal grandmother was in the best interest of the children. Judgment affirmed.

Case Name: *State of Ohio v. Jasimine Ward*  
Case No: Montgomery App. No. 29282; T.C. Case No. 2018-CR-1206  
Panel: Tucker, Donovan, Welbaum  
Author: Michael L. Tucker  
Summary: The trial court adequately set forth the basis for revoking appellant's community control on the record during a revocation hearing. The fact that the plea form underlying appellant's conviction misidentified the Ohio Revised Code section for felonious assault did not render her three-year prison sentence for felonious assault contrary to law. Judgment affirmed.

Case Name: *State of Ohio v. James David Everett*  
Case No: Montgomery App. No. 29304; T.C. Case No. 2021-CR-257  
Panel: Tucker, Donovan, Welbaum  
Author: Michael L. Tucker  
Summary: The trial court imposed a jointly-recommended prison sentence. As such, under R.C. 2953.08(D)(1), this court is without jurisdiction to consider appellant's assignment of error challenging the sentence. Further, based upon the parties' sentencing agreement, appellant knew that the sentences were not subject to merger. Judgment affirmed.