

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
September 27, 2024

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 v. Joshua Eugene Wilson*
Case No. Montgomery C.A. No. 30059; T.C. Case No. 2003 CR 04325
Panel: Epley, Lewis, Huffman
Author: Mary K. Huffman
Summary: The trial court did not err in denying appellant's post-conviction application for DNA testing under R.C. 2953.74(B) and (C); DNA testing was accepted, admissible, and available at the time of appellant's trial, and any exclusion results would not have been outcome determinative because appellant's identity was not at issue at trial. Judgment affirmed.

Case Name: *Pathfinder Realty, Inc. v. Moncierra Taylor and all other occupants*
Case No. Montgomery C.A. No. 30126; T.C. Case No. 23 CVG 1191
Panel: Epley, Tucker, Huffman
Author: Mary K. Huffman
Summary: The municipal court correctly implied a month-to-month tenancy and evicted appellant for non-payment of rent. Although appellant had entered a land installment contract with a prior owner of the property, that contract was not recorded and therefore, pursuant to R.C. 5301.25, was fraudulent as to a subsequent owner of the property who was a bona fide purchaser without knowledge of the contract. In any event, appellant has vacated the premises, and there is no further relief to be granted. Appeal dismissed as moot.

Case Name: *State of Ohio v. Sean Corey Webb*
Case No. Champaign C.A. No. 2023-CA-34; T.C. Case No. 2023 CR 082
Panel: Welbaum, Tucker, Lewis
Author: Jeffrey M. Welbaum
Summary: The trial court did not improperly sentence appellant based on factors or considerations that were extraneous to those permitted by R.C. 2929.11 and 2929.12. Appellant pled guilty to escape based on the fact that he absconded while on post-release control supervision. In

deciding on the sentence to impose, the court was entitled to consider pending charges for crimes appellant allegedly committed during the time he absconded. The sentence was not contrary to law. Judgment affirmed.

Case Name: *State v. Salik Ka-Shane Orr*
Case No: Clark C.A. No. 2024-CA-13; T.C. Case No. 23-CR-661
Panel: Welbaum, Tucker, Lewis
Author: Jeffrey M. Welbaum
Summary: The trial court did not err in sentencing appellant to a prison term. The court complied with statutory sentencing requirements, and the court's review of a police report included with the presentence investigation report did not involve consideration of an improper external factor in sentencing. Judgment affirmed.

Case Name: *State of Ohio v. Derrick E. Tomlin*
Case No: Miami C.A. No. 2024-CA-4; T.C. Case No. 23CR164
Panel: Welbaum, Tucker, Lewis
Author: Jeffrey M. Welbaum
Summary: The trial court did not err by failing to suppress drug evidence found on appellant's person following a traffic stop, because the traffic stop and the subsequent investigatory detention and pat-down search of appellant were lawful. Judgment affirmed.

Case Name: *State of Ohio v. Terry Neal Tolle*
Case No: Champaign C.A. No. 2024-CA-4; T.C. Case No. 2022 CR 225
Panel: Welbaum, Tucker, Huffman
Author: Jeffrey M. Welbaum
Summary: Appellant's 18-month prison sentence for violating his community control sanctions was not contrary to law. Judgment affirmed.

Case Name: *State of Ohio v. Jamie Jamiel King*
Case No: Champaign C.A. No. 2024-CA-1; T.C. Case No. 2023 CR 071
Panel: Welbaum, Tucker, Lewis
Author: Michael L. Tucker
Summary: The record does not portray ineffective assistance of counsel based on appellant's attorney's failure to enter a plea of not guilty by reason of insanity. Statutory forfeiture procedures did not apply where forfeiture was the product of the appellant's voluntary plea agreement. Judgment affirmed.

Case Name: *State of Ohio v. James T. Kiptanui*
Case No: Montgomery C.A. No. 30051; T.C. Case No. 12CRB1024
Panel: Epley, Tucker, Huffman
Author: Michael L. Tucker
Summary: The trial court did not err in denying appellant's application to seal

his misdemeanor conviction for violating a protection order. Ohio's record-sealing process did not apply to that offense, which was ineligible to be sealed. Appellant's misdemeanor offense for criminal trespass also could not be sealed because the trial court never imposed a sentence after making a finding of guilt. In addition, the existence of the protection-order violation conviction precluded sealing of the criminal-trespass offense. Judgment affirmed.