

**THE COURT OF APPEALS OF OHIO**  
**SECOND APPELLATE DISTRICT**  
**CASE SUMMARIES**  
**September 6, 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 of Ohio v. Larry Hicks*  
Case No: Montgomery C.A. No. 30046; T.C. Case No. 2022-TRD-005322  
Panel: Welbaum, Tucker, Lewis  
Author: Ronald C. Lewis  
Summary: State's appeal. The trial court properly granted appellee's motion to dismiss on double jeopardy grounds. The trial court granted the State's motion for a mistrial after the jury was impaneled and sworn, but there was no manifest necessity requiring the mistrial, and the trial court did not consider reasonable alternatives before declaring the mistrial. Judgment affirmed.

Case Name: *State of Ohio v. Malik Taleeb Rasheed*  
Case No: Montgomery C.A. No. 29917; T.C. Case No. 2022 CR 03026  
Panel: Epley, Tucker, Lewis  
Author: Ronald C. Lewis  
Summary: The trial court did not err in overruling appellant's motions to dismiss for speedy trial violations where 1) accounting for tolling events, the first trial began within 90 days of his arrest and 2) the second trial occurred within a reasonable time after a mistrial was declared in the first trial. The trial court did not abuse its discretion in declaring a mistrial after the jury was sworn when appellant decided to proceed pro se, requested new standby counsel, and was unprepared to go forward without a continuance. The trial court did not abuse its discretion in ordering a competency evaluation after appellant requested a competency hearing. The trial court did not commit plain error when it admitted two 911 phone calls at trial. The trial court did not abuse its discretion in limiting appellant's ability to cross-examine the victim about any prior arrests or "run-ins" with police. Appellant's conviction for felonious assault was supported by sufficient evidence. The trial court properly informed appellant of the Reagan Tokes requirements at the sentencing hearing; the notifications were not also required in the sentencing entry. Judgment affirmed.

Case Name: *State of Ohio v. Jeffrey Dyer, III*  
Case No: Clark C.A. No. 2023-CA-34; T.C. Case No. 23-CR-109(A)  
Panel: Epley, Tucker, Lewis  
Author: Ronald C. Lewis  
Summary: Defense counsel's joint representation of appellant and his co-defendant, who were jointly indicted for the same incident, did not deny appellant his right to effective assistance of counsel. The interests of appellant and his co-defendant were not incompatible, the trial court reviewed the waiver of conflict of interest with appellant prior to trial, and the record does not demonstrate an actual conflict of interest. Defense counsel's alleged egregious conduct in voir dire, opening statement, and cross-examination of the State's witnesses was a matter of trial strategy, and prejudice is not demonstrated. Moreover, the jury is presumed to have followed the court's instructions to disregard "editorializing" by defense counsel and that counsel's statements and arguments were not evidence. The trial court did not abuse its discretion in refusing to admit irrelevant evidence of the victim's prior speeding record. Appellant's argument that the trial court erred in not admitting the victim's Facebook video discussing the shooting is without merit because defense counsel did not seek to admit the video. The trial court did not abuse its discretion in refusing to instruct the jury on aggravated assault as an inferior-degree offense of felonious assault, because there was no evidence of serious provocation. Appellant's conviction for attempted murder was not against the manifest weight of the evidence. Judgment affirmed.

Case Name: *State of Ohio v. Timothy Sweeney*  
Case No: Clark C.A. No. 2023-CA-58; T.C. Case No. 22-CR-0813  
Panel: Epley, Welbaum, Huffman  
Author: Jeffrey M. Welbaum  
Summary: Appellant's statutory and constitutional rights to a speedy-trial were not violated. The trial court did not abuse its discretion by ordering a trial continuance as opposed to dismissing appellant's case as a consequence of the State's discovery violations. Appellant's conviction for aggravated possession of drugs was supported by sufficient evidence. Judgment affirmed.

Case Name: *Jennifer Layne Grissom Curtis, et al. v. Derf D. Edsell, et al.*  
Case No: Montgomery C.A. No. 29994; T.C. Case No. 2023 MSC 00102  
Panel: Welbaum, Tucker, Lewis  
Author: Michael L. Tucker  
Summary: Decedent's son appeals from the probate court's grant of summary judgment in favor of decedent's grandchildren (son's nieces and nephew) and the denial of his motion for judgment on the pleadings on their claims regarding the interpretation of decedent's trust. The

probate court correctly found that son's ability to sell residential property in which he was granted a life estate was not unlimited, but it erred in concluding that he could only sell his life tenancy. The probate court correctly determined that grandchildren were beneficiaries of decedent's trust with respect to the residential property but erred in concluding that they were vested beneficiaries; under R.C. 5808.19, the trust antilapse statute, grandchildren's remainder interest was contingent upon surviving the termination of the life estate by 120 days. Judgment affirmed in part and reversed in part.

Case Name: *Carol Pollock, Individually and as Trustee, et al. v. Larry R. Mullins, et al.*  
Case No: Montgomery C.A. No. 30057; T.C. Case No. 2023 MSC 00342  
Panel: Welbaum, Tucker, Lewis  
Author: Michael L. Tucker  
Summary: Following the settler's death, the beneficiaries of a trust filed a motion to remove appellant as trustee, and the probate court granted the motion. The probate court reasonably concluded that appellant had not complied with his duties as trustee, and it did not abuse its discretion in removing him as trustee. Appellant's due process rights were not violated by presentation of new arguments at the hearing. Judgment affirmed.

Case Name: *State of Ohio v. Doshie G. Bond*  
Case No: Montgomery C.A. No. 30035; T.C. Case No. 2021 CR 03825  
Panel: Epley, Welbaum, Huffman  
Author: Mary K. Huffman  
Summary: The trial court did not err in failing to advise appellant of his post-release control obligations at his third sentencing hearing, as appellant had previously been advised of those obligations during his initial sentencing hearing and in his original and amended judgment entries. The trial court's failure to advise appellant of his appellate rights at resentencing was harmless error because appellant filed a timely notice of appeal and demonstrated his understanding of his appellate rights. Appellant's other arguments are barred by res judicata because he failed to raise them in his direct appeal. Judgment affirmed.