

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
November 12, 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. Jacob Thompson*
Case No: Clark App. No. 2020-CA-60; T.C. Case No. 2020-CR-59
Panel: Tucker, Donovan, Welbaum
Author: Mary E. Donovan
Summary: Appellant was sentenced under the Reagan Tokes Act to an indefinite sentence of 10 to 15 years for rape. He failed to establish that the Act violates the separation of powers doctrine, due process, or the right to a trial by jury. In other words, he failed to establish that the Reagan Tokes Act is facially unconstitutional. However, since the trial court failed to notify appellant at sentencing about the rebuttable presumption that he will be released after serving the minimum term of 10 years, as required by R.C. 2929.19(B)(2)(c), his sentence is contrary to law. Judgment affirmed in part, reversed in part, and remanded to the trial court for the sole purpose of resentencing appellant pursuant to R.C. 2929.19(B)(2)(c).

Case Name: *State of Ohio v. Ferdinand M. McElroy*
Case No: Montgomery App. No. 28974; T.C. Case No. 2020-CR-1612
Panel: Tucker, Donovan, Epley
Author: Christopher B. Epley
Summary: *Anders* appeal. The record reveals no non-frivolous issues regarding the motion to suppress or competency evaluations. Further, no non-frivolous issues exist concerning appellant's plea, plea colloquy, sentence, or sentencing hearing. Finally, an independent review of the record fails to reveal any issue with arguable merit. Judgment affirmed.

Case Name: *William Hammonds v. Beavercreek City Schools, et al.*
Case No: Greene App. No. 2021-CA-12; T.C. Case No. 2020-CV-342
Panel: Donovan, Hall, Welbaum
Author: Michael T. Hall
Summary: The trial court did not err by granting summary judgment for the school district on appellant's claim for wrongful discharge in violation of public policy. There was no evidence that the non-renewal of appellant's administrative contract was caused by his filing of a complaint with the Ohio Department of Education, and the evidence showed ample legitimate business justification for the non-renewal. Judgment affirmed.

Case Name: *In re C.T., C.T., and C.T.*
Case No: Montgomery App. No. 29208;
T.C. Case Nos. 2018-5508, 2018-5509, and 2018-5510
Panel: Tucker, Donovan, Welbaum
Author: Jeffrey M. Welbaum
Summary: The juvenile court did not err in awarding legal custody of appellant's three children to non-relatives. Judgment affirmed.

Case Name: *In re R.W.H.*
Case No: Montgomery App. No. 28880; T.C. Case No. 2016-7436
Panel: Tucker, Welbaum, Epley
Author: Jeffrey M. Welbaum
Summary: The trial court did not abuse its discretion in granting a children services agency permanent custody of a four-year-old child, as the trial court's findings under R.C. 2151.414(B)(1) and R.C. 2151.414(D)(1) were supported by clear and convincing evidence and were not against the manifest weight of the evidence. Father's multiple ineffective assistance of counsel claims lack merit and are also waived for appeal since Father waived his right to counsel at the permanent custody hearing and represented himself at the hearing. Father's claim that his constitutional rights to free speech and due process were violated also lacks merit. Judgment affirmed.

Case Name: *Sabrina Jordan, Executrix v. John Howard, et al.*
Case No: Montgomery App. No. 29190; T.C. Case No. 2021-CV-927
Panel: Donovan, Hall, Welbaum
Author: Jeffrey M. Welbaum
Summary: In this case, which involved the shooting death of an individual by police officers, the trial court did not err in dismissing appellant's claims for negligence/recklessness, assault and battery, civil conspiracy, and survivorship. These claims were barred because

appellant failed to refile them in state court within the time prescribed by 28 U.S.C. 1367(d) or by R.C. 2305.19(A), after they were dismissed by the federal district court. Furthermore, the trial court correctly found that appellant's remaining claim for wrongful death was barred by issue preclusion, i.e., by the collateral estoppel effect of the prior federal court action. Judgment affirmed.