

**THE COURT OF APPEALS OF
OHIO SECOND APPELLATE
DISTRICT CASE SUMMARIES
May 15, 2020**

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Case Name: *In The Matter of the Adoption of C.D.G. & N.A.G.*
Case No: Montgomery App. Nos. 28664 & 28665; T.C. Case Nos. 2019-ADP-50 & 2019-ADP-51
Panel: Tucker, Froelich, Hall
Author: Michael T. Hall
Summary: In this stepparent adoption proceeding, the trial court reasonably found that Stepfather established, by clear and convincing evidence, that Father failed to contact his children or to provide maintenance and support for them for one year prior to the filing of the petition, and that this failure was without justifiable cause. Because Stepfather satisfied his burden to establish lack of contact and support and a lack of justifiable cause by clear and convincing evidence, the trial court did not err in holding that Father's consent to the adoption of the children by Stepfather was not required. Judgment affirmed.

Case Name: *State of Ohio v. Cathey Sarah Lee McIntosh*
Case No: Montgomery App. No. 28539; T.C. Case No. 2019-CR-2104/1
Panel: Tucker, Froelich, Hall
Author: Michael T. Hall
Summary: Appellant has not demonstrated prejudice in entering her guilty plea to the offense of escape. The consecutive-sentence requirement in R.C. 2929.14(C)(2) did not apply in this case. Therefore, appellant was not harmed by not being informed about it. Judgment affirmed.

Case Name: *State of Ohio v. Kiel T. Greenlee*
Case No: Montgomery App. Nos. 28467 & 28468; T.C. Case Nos. 2018-CRB-1708 & 2018-CRB-2232
Panel: Donovan, Froelich, Hall
Author: Michael T. Hall
Summary: The trial court did not abuse its discretion in finding that the appellant had experienced a change of heart and that he had not shown a

reasonable and legitimate basis for withdrawing his guilty pleas before sentencing. Judgment affirmed.

Case Name: *State of Ohio v. Raymone E. Hill*
Case No: Montgomery App. No. 28411; T.C. Case No. 2018-TRD-9576
Panel: Tucker, Froelich, Hall
Author: Michael L. Tucker
Summary: Appellant established a prima facie violation of the R.C. 2945.71 speedy trial period. This shifted the burden to the State to establish that the speedy trial time had been extended under R.C. 2945.72. The trial court erred by summarily overruling appellant's motion, instead of requiring the State to meet its burden. Judgment reversed and remanded.

Case Name: *State of Ohio v. Sean Chappell*
Case No: Montgomery App. No. 28598; T.C. Case No. 2019-CR-1867
Panel: Donovan, Froelich, Welbaum
Author: Mary E. Donovan
The State appeals from the trial court's decision granting appellee's motion to suppress after he was indicted for improper handling of a firearm in a motor vehicle. Undercover officers requested that a uniformed officer conduct a traffic stop of the appellee's vehicle for speeding and parking illegally. Upon arrival, the uniformed officer, whose overhead lights were activated, approached the driver, appellee, who was outside of the vehicle. The undercover officers also responded to the traffic stop; one of them approached the vehicle itself, removed the passenger, and reported to other officers that there was a weapon in the vehicle. That undercover officer did not testify at the suppression hearing, and no description of the gun or photos of the interior of the vehicle depicting the presence of the weapon were presented by the State. The weapon also was not visible in the cruiser camera video, and the video of the search of the vehicle does not depict the removal of the firearm from the vehicle. Under these circumstances, the trial court found that the State failed to meet its burden to establish the plain view exception to the warrant requirement, because it relied on hearsay that was not supported by sufficient indicia of reliability. The trial court did not err in granting appellee's motion to suppress. The trial court was not required to accept the State's interpretation of the video evidence. Judgment affirmed. (Welbaum, J., dissenting.)

Case Name: *State of Ohio v. Paris Orlando Simpson*
Case No: Montgomery App. No. 28558; T.C. Case No. 2002-CR-982/1
Panel: Tucker, Froelich, Hall
Author: Jeffrey E. Froelich

Summary: *Anders* appeal from judgment following resentencing for the proper imposition of post-release control. There are no non-frivolous issues based on the court's imposition of post-release control on one count (aggravated robbery) only, the court's limiting the hearing to the imposition of post-release control, and the court's conducting the hearing by video conferencing. Judgment affirmed.

Case Name: *State of Ohio v. Steve P.B. Wilson Jr.*

Case No: Clark App. No. 2018-CA-2; T.C. Case No. 2017-CR-227

Panel: Tucker, Froelich, Hall

Author: Jeffrey E. Froelich

Summary: Appellant was convicted of felonious assault with a repeat violent offender specification, domestic violence with a specification that the victim was pregnant, and abduction. Appellant timely moved to dismiss on speedy trial grounds in the trial court, and that issue was not waived for appeal. The trial court did not err in concluding that no speedy trial violation occurred.

Appellant knowingly, intelligently, and voluntarily waived his constitutional right to counsel. The trial court did not err in limiting the role of standby counsel at trial.

The trial court did not err in allowing the State to present the victim's hearsay statements at trial, pursuant to Evid.R. 804(B)(6). Because the victim ultimately testified at trial on behalf of the appellant, the use of the victim's hearsay statements did not violate the Confrontation Clause.

Appellant's convictions were not against the manifest weight of the evidence. The trial court committed plain error when it failed to merge the felonious assault and domestic violence offenses as allied offenses of similar import. Because the cost bill is not part of the record, we cannot review on direct appeal whether the bill complies with statutory requirements.

Judgment affirmed in part, reversed in part, and remanded for resentencing on the merged domestic violence and felonious assault charges. (Hall, J., concurring in part and dissenting in part.)