

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
August 13, 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. Paul Eugene Allen*
Case No: Montgomery App. No. 29005; T.C. Case No. 1994-CR-1193
Panel: Tucker, Hall, Epley
Author: Michael T. Hall
Summary: The trial court did not err in overruling appellant's pro se "Motion to Correct a Facially Illegal, Void Sentence." Appellant argues that evidence obtained in violation of *Miranda* improperly was used by the prosecution in his 1995 criminal trial. For that reason, he argues that his prison sentence is void. Even setting aside the extreme untimeliness of the appellant's motion, his argument about the improper admission of suppressed statements at trial could have been raised on direct appeal. Therefore, the trial court correctly found res judicata applicable. The trial court also correctly observed that the State was permitted to use the suppressed statements to rebut appellant's own testimony. Moreover, any error in the admission of evidence at trial does not make a defendant's sentence void. Judgment affirmed.

Case Name: *Amy R. Reinhold v. Robert V. Reinhold*
Case No: Miami App. Nos. 2020-CA-8 & 2021-CA-1;
T.C. Case No. 2010-DR-298
Panel: Donovan, Hall, Epley
Author: Michael T. Hall
Summary: The trial court did not err by overruling appellant's motion to modify spousal support. R.C. 3105.18(E) gives a court jurisdiction to modify only "periodic payments of money as spousal support." The parties' divorce decree, although purporting to reserve jurisdiction over spousal support, awarded appellant only a lump-sum amount. Therefore, the court lacked jurisdiction to modify the spousal support awarded in the decree. The trial court also did not err by overruling appellant's motion for relief from judgment under Civ.R. 60(B)(4) or

(5), which sought similar relief from the divorce decree. The only way to modify an award of spousal support is under the substantive law, i.e., R.C. 3105.18(E). Judgments affirmed.

Case Name: *In re A.R.*
Case No: Greene App. No. 2021-CA-7; T.C. Case No. P0008922
Panel: Donovan, Hall, Welbaum
Author: Jeffrey M. Welbaum
Summary: The trial court's judgment awarding Father legal custody of his biological son, A.R., was not against the manifest weight of the evidence and was not an abuse of discretion. There was competent, credible evidence in the record from which the trial court could have found that Father was a suitable parent, and such a finding was not unreasonable. Judgment affirmed.

Case Name: *Katelyn Van Gundy v. Gregory Van Gundy*
Case No: Montgomery App. No. 29066; T.C. Case No. 2020-DR-439
Panel: Tucker, Hall, Epley
Author: Michael L. Tucker
Summary: The domestic relations court had not been apprised of appellant's pregnancy prior to entering judgment in the parties' non-contested divorce. Appellant then gave birth to a child within 300 days of the filing of the divorce decree. Appellant filed a motion in the domestic relations court seeking an order that appellee, her ex-husband, is not the child's father. The court correctly concluding that, under these circumstances, it was without jurisdiction to determine the child's paternity. Judgment affirmed.

Case Name: *Huber Heights Veterans Club, Inc. v. Grande Voiture D'Ohio La Societe Des 40 Hommes Et 8 Chevaux, et al.*
Case No: Montgomery App. No. 29095; T.C. Case No. 2021-CV-1227
Panel: Tucker, Hall, Epley
Author: Christopher B. Epley
Summary: The trial court granted summary judgment to appellees (national and state-level veterans' organizations) on claims by appellant (a purported local veterans organization) for "Theft of Chattels and Damages to Property." The trial court properly considered judgments from related cases involving the parties, which were attached as exhibits to the motion for summary judgment. The trial court properly granted summary judgment based on res judicata; prior judgments established that appellant had no right to the real and personal property at issue. The trial court did not deny appellant access to the court system. Judgment affirmed.

Case Name: *State of Ohio v. Diamond Worthen*
Case No: Montgomery App. No. 29043; T.C. Case No. 2020-CR-3213
Panel: Tucker, Hall, Epley
Author: Christopher B. Epley
Summary: Appellant challenges her 12-month sentence for harassment by an inmate in violation of R.C. 2921.38(A). The trial court complied with its obligation to consider the statutory policies that apply to every felony offense, including those set out in R.C. 2929.11 and R.C. 2929.12. To the extent that appellant claims that her 12-month sentence is not supported by the record under R.C. 2929.11 and R.C. 2929.12, that argument is precluded by *State v. Jones*, 163 Ohio St.3d 242, 2020-Ohio-6729, 169 N.E.3d 649. Judgment affirmed.