

**THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
September 10, 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:	<i>Rishi Bajaj v. Nita Green</i>
Case No:	Darke App. No. 2021-CA-7; T.C. Case No. 21640007
Panel:	Tucker, Welbaum, Epley
Author:	Christopher B. Epley
Summary:	The trial court did not abuse its discretion in terminating the parties' shared parenting plan, designating Mother the residential and custodial parent, and calculating Father's new child support obligation. The trial court did not abuse its discretion in failing to interview the five-year-old child regarding insensitive comments the child allegedly made. Judgment affirmed.
Case Name:	<i>Mary Beth Henderson v. Graeme Henderson</i>
Case No:	Greene App. Nos. 2020-CA-40 & 2021-CA-5; T.C. Case No. 2017-DR-189
Panel:	Tucker, Welbaum, Epley
Author:	Christopher B. Epley
Summary:	The trial court did not err by ordering appellant to pay spousal support for 48 months and retaining jurisdiction for an additional 48 months, as appellee has a degenerative disease and may be unable to work until retirement age. Likewise, the trial court did not err by ordering appellant to pay part of appellee's attorney's fees. Judgment affirmed.
Case Name:	<i>State of Ohio ex rel. Jameka Bennett, et al. v. Board of Education of the Dayton Public Schools</i>
Case No:	Montgomery App. Nos. 28981, 28982, 28983, 28984; T.C. Case Nos. 2018-CV-5436, 2018-CV-5437, 2018-CV-5438, 2018-CV-5439
Panel:	Tucker, Hall, Epley
Author:	Michael T. Hall
Summary:	The trial court erred in entering summary judgment in favor of appellee Dayton Public Schools Board of Education. The record contains genuine issues of material fact as to (1) whether the

appellants' employment with Dayton Public Schools was suspended as part of a true reduction in force in the transportation department and (2) whether the appellants were qualified to be recalled into newly created positions. Judgments reversed and remanded.

Case Name: *State of Ohio v. Donald J. McHenry*
Case No: Montgomery App. No. 29106; T.C. Case No. 2020-CR-852
Panel: Tucker, Welbaum, Epley
Author: Jeffrey M. Welbaum
Summary: State's appeal. The trial court's decision to exclude certain evidence as a sanction for an inadvertent discovery violation was an abuse of discretion under the circumstances, where the exclusion necessarily resulted in the dismissal of the case and where a less severe sanction in the form of a trial continuance was a fair and feasible option. Judgment reversed and remanded.

Case Name: *State of Ohio v. Corey D. Castonguay*
Case No: Darke App. No. 2021-CA-2; T.C. Case No. 2020-CR-119
Panel: Donovan, Hall, Epley
Author: Mary E. Donovan
Summary: The trial court did not err when it overruled appellant's Crim.R. 29 motion for acquittal based upon venue. Darke County was a proper venue because the offenses appellant committed were committed "as part of the same transaction or chain of events, or in furtherance of the same purpose or objective," namely to deprive the victim and his wife of funds contained in their electronically-stored bank accounts that the victim could access online from his residence in Darke County. The trial court did not err in allowing three of the State's witnesses to testify remotely; the record establishes that the State sufficiently justified the witnesses' unavailability. However, even if the State did not sufficiently justify the witnesses' testifying remotely, we find the trial court's admission of the witnesses' remote testimony harmless beyond a reasonable doubt. Judgment affirmed.

Case Name: *State of Ohio v. Dennis Devone Jackson*
Case No: Montgomery App. No. 29000; T.C. Case No. 2010-CR-1126
Panel: Donovan, Hall, Welbaum
Author: Mary E. Donovan
Summary: Appellant's motion for a new trial raised an issue of which he would have been aware in the course of the trial at which he was convicted, and he presented no new additional information in support of his motion. Specifically, appellant knew that the police had subpoenaed cell service location information from his cell phone provider. Thus, his argument was barred by res judicata. *State v. Carpenter*, __ U.S.__, 138 S.Ct. 2206, 201 L.Ed.2d 507 (2018), which held that obtaining cell service location information without a warrant violates

the Fourth Amendment, did not apply to this case retroactively. Judgment affirmed.

Case Name:

State of Ohio v. Dennis Devone Jackson

Case No:

Montgomery App. No. 29001; T.C. Case No. 2010-CR-1126

Panel:

Donovan, Hall, Welbaum

Author:

Mary E. Donovan

Summary:

The trial court did not err when it overruled appellant's motions to correct an illegal/void sentence and for new trial/dismissal; the motions were untimely filed, and the issues raised by appellant were barred by res judicata. Judgments affirmed.