

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
January 5, 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: *B. Gary Ladd v. Michael P. Planchak, et al.*
Case No: Montgomery C.A. No. 29830; T.C. Case No. 2018 CV 05486
Panel: Welbaum, Tucker, Huffman
Author: Jeffrey M. Welbaum
Summary: A co-venturer was not precluded from maintaining a breach of contract action against another co-venturer prior to an accounting or settlement of the joint venture. The trial court did not err in applying partnership law, which applies to joint ventures and allows actions to be brought without an accounting. The court correctly instructed the jury that a co-venturer must give notice of withdrawal before a joint venture may be terminated, and no notice was given here. The trial court did not abuse its discretion in precluding appellant's accountant from testifying as to issues that had already been decided in a prior action between the parties or as to legal opinions and irrelevant matters. Appellant waived any issue concerning answers to jury interrogatories by failing to raise this before the jury was discharged. Finally, the court did not err in refusing to grant appellant's motion for an order requiring the Internal Revenue Service ("IRS") to produce appellees' tax returns. Appellees had provided the needed signed forms on two occasions, but the IRS did not respond to requests that the returns be produced. The trial court correctly concluded that it could not order the IRS to comply. Moreover, appellant received copies of the tax returns from appellees' tax preparer, who verified that the returns were copies of the returns filed with the IRS. Judgments affirmed.

Case Name: *State of Ohio v. Task Moreland*
Case No: Montgomery C.A. No. 29724; T.C. Case No. 2021 CR 03009
Panel: Tucker, Epley, Lewis
Author: Michael L. Tucker
Summary: The trial court did not err in designating the State's firearms witness

as an expert in muzzle-to-target distance determinations. The jury's verdicts were supported by legally sufficient evidence and were not against the manifest weight of the evidence. The trial court did not err in precluding appellant from introducing evidence of the victim's alleged prior violent tendencies. Appellant has not demonstrated that juror misconduct led to improper verdicts. Judgment affirmed.

Case Name: *State of Ohio v. Carlos Worthan*
Case No: Montgomery C.A. No. 29938; T.C. Case No. 2023 CR 00425
Panel: Tucker, Epley, Lewis
Author: Michael L. Tucker
Summary: State's appeal. The trial court did not err in sustaining appellee's motion to suppress cell-phone data obtained pursuant to a search warrant issued by a local municipal court and served on AT&T's legal-compliance office in North Palm Beach, Florida. The trial court correctly held that the municipal court lacked authority to issue a warrant to be executed outside of its territorial jurisdiction. Judgment affirmed.

Case Name: *State of Ohio v. James Manns*
Case No: Montgomery C.A. No. 29882; T.C. Case No. 2023 CR 00557
Panel: Tucker, Lewis, Huffman
Author: Mary K. Huffman
Summary: The trial court did not err in overruling appellant's motion to suppress. Under the totality of the circumstances, the traffic stop of a vehicle in which appellant was a passenger was reasonable, and the use of a canine unit did not unnecessarily prolong the stop; the officer had been diligently engaged in completing the traffic citation when the dog arrived within 15 minutes of the stop. Reasonable suspicion was not required to support appellant's removal from the vehicle. Judgment affirmed.

Case Name: *In re: D.L.L.*
Case No: Montgomery C.A. No. 29883;
T.C. Case No. G-2013-001905-0L, 0M
Panel: Welbaum, Tucker, Huffman
Author: Mary K. Huffman
Summary: The juvenile court did not abuse its discretion in failing to find Father in contempt for not notifying Mother of an isolated change in his work schedule during which he left the parties' minor child in the care of relatives. The juvenile court further did not abuse its discretion by failing to find Father in contempt for allegedly consuming alcohol within 24 hours of picking up the parties' minor child. Judgment affirmed.

Case Name: *State of Ohio v. Lawrence M. Boggess*
Case No: Montgomery C.A. No. 29775; T.C. Case No. 2022 CR 00420
Panel: Welbaum, Epley, Huffman
Author: Christopher B. Epley
Summary: Appellant's conviction for violating a protection order was based on sufficient evidence that he sent a text message to the victim from a phone number other than his own. Judgment affirmed.

OPINION AND FINAL ENTRY RELEASED ON JANUARY 2, 2024

Case Name: *State of Ohio v. Donald A. Gronbeck*
Case No: Greene C.A. No. 2023-CA-68; T.C. Case No. 2022CR0464
Panel: Tucker, Epley, Lewis
Author: Michael L. Tucker
Summary: The trial court's overruling of non-party appellants' motion to quash and objections to defendant's subpoenas is not a final, appealable order because (1) no records were ordered disclosed to the defendant and (2) the trial court has scheduled an in-camera review to determine which records, if any, should be disclosed. Under these circumstances, the overruling of the motion to quash and the objections neither determined the action with respect to the subpoenas nor prevented a judgment in appellants' favor, as required for a final order under R.C. 2505.02(B)(4). Appeal dismissed for lack of a final, appealable order.