

**THE COURT OF APPEALS OF OHIO**  
**SECOND APPELLATE DISTRICT**  
**CASE SUMMARIES**  
**October 13, 2023**

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: *Christopher P. Ryan v. State Farm Mutual Automobile Insurance Company, et al.*  
Case No: Montgomery C.A. No. 29778; T.C. Case No. 2021 CV 04801  
Panel: Tucker, Lewis, Huffman  
Author: Mary K. Huffman  
Summary: The trial court properly bifurcated an insured's claims against his insurance company for breach of contract in providing uninsured motorist coverage and bad faith. However, the court erred as a matter of law in ordering the insurance company to immediately produce certain evidentiary materials in its claims file in discovery. The materials at issue were relevant only to the bad faith claim, and their disclosure undoubtedly would prejudice the insurance company's ability to defend against the uninsured motorist claim. The insured is not entitled to discovery of such materials until the underlying breach of contract claim is resolved. Judgment reversed and remanded.
- Case Name: *Angela S. Piros v. Deanna J. Teague, et al.*  
Case No: Greene C.A. No. 2023-CA-21; T.C. Case No. 22-CV-568  
Panel: Tucker, Lewis, Huffman  
Author: Mary K. Huffman  
Summary: The trial court erred by failing to comply with several of the statutory requirements for partition and in transferring the property solely to appellee, thereby depriving appellant of her interest in the property. Judgment reversed and remanded.
- Case Name: *State of Ohio v. John Curtis Bump*  
Case No: Champaign C.A. No. 2023-CA-4; T.C. Case No. 2022 CR 00168  
Panel: Welbaum, Lewis, Huffman  
Author: Ronald C. Lewis  
Summary: The trial court did not err in overruling appellant's Crim.R. 29 motion for acquittal. Appellant's conviction was supported by sufficient evidence. Judgment affirmed.

Case Name: *Charles R. Shaeffer v. FC Industries Inc., et al.*  
Case No: Montgomery C.A. No. 29758; T.C. Case No. 2021 CV 04424  
Panel: Welbaum, Lewis, Huffman  
Author: Ronald C. Lewis  
Summary: The trial court erred in granting summary judgment to employer on employee's workers' compensation claim for substantial aggravation of a pre-existing injury, where employer failed to satisfy its initial burden to demonstrate the absence of a genuine issue of material fact. A motion for summary judgment is not the proper mechanism to resolve a failure to provide discovery. Judgment reversed and remanded.

Case Name: *State of Ohio v. Steven Michael Hawkins Jr.*  
Case No: Montgomery C.A. No. 29761; T.C. Case No. 2020 CR 03039  
Panel: Tucker, Lewis, Huffman  
Author: Ronald C. Lewis  
Summary: The trial court did not err in overruling appellant's motion to suppress evidence obtained during a traffic stop where the detention was not extended beyond the normal duration of a traffic stop, appellant voluntarily consented to a search of his person, and the police officer knew by plain feel and experience that the bulge in appellant's waistband was contraband. Judgment affirmed.

Case Name: *State of Ohio v. Russell W. Tolson*  
Case No: Greene C.A. No. 2022-CA-31; T.C. Case No. 2018CR0692  
Panel: Tucker, Epley, Lewis  
Author: Ronald C. Lewis  
Summary: The trial court erred in conducting a resentencing hearing to fix a clerical error in its judgment entry related to the length of post-release control. Although the court could have originally corrected the entry with a nunc pro tunc entry, it was precluded from doing so after appellant's release from prison after fully serving the imposed sentence. Judgment vacated.

Case Name: *Marilyn K. Holsopple, Power of Attorney for Marceil Johnston v. Village Green-Trilogy Health Services, LLC*  
Case No: Darke C.A. No. 2023-CA-7; T.C. Case No. 23-CVI-001-0050  
Panel: Tucker, Lewis, Huffman  
Author: Michael L. Tucker  
Summary: The trial court did not err in entering judgment against appellant on her complaint for reimbursement of \$5,680 from appellee for the cost of her mother's stay at appellee's assisted-living facility. Appellant signed a private-pay agreement obligating herself to pay for her mother's stay, and the weight of the evidence supported a finding that the cost was not eligible for Medicare reimbursement. Further,

the weight of the evidence did not support a finding that appellee had engaged in any fraud or other wrongdoing that would justify ordering appellee to reimburse appellant. Judgment affirmed.

Case Name: *Krista Tipton v. Mad River Local Board of Education*  
Case No: Montgomery C.A. No. 29805; T.C. Case No. 2021 CV 05125  
Panel: Tucker, Lewis, Huffman  
Author: Michael L. Tucker  
Summary: Appellant's complaint asserted that the school board had violated the Ohio Open Meetings Act (OMA) by enacting a COVID masking policy in a non-public meeting. The trial court properly granted summary judgment to the school board on this claim, because there was no competent evidence that the masking policy had been enacted by the school board in a non-public meeting in violation of the OMA. Judgment affirmed.

**ORDER ON APPLICATION FOR RECONSIDERATION  
RENDERED OCTOBER 5, 2023**

Case Name: *State of Ohio v. Michael Wood*  
Case No. Clark C.A. No. 2022-CA-67; T.C. Case No. 22-CR-0488  
Panel: Welbaum, Tucker, Epley  
Author: Per Curiam  
Summary: A refusal to submit to field sobriety tests is not testimonial in nature. Appellant's Fifth Amendment privilege against self-incrimination did not prohibit using his refusal to submit to field sobriety tests as a factor in the Fourth Amendment probable cause analysis for an arrest for driving under the influence. Appellant simply disagrees with our resolution of his appeal and has not pointed to an obvious error or issue that we failed to consider. Application for reconsideration denied.