

**THE COURT OF APPEALS OF OHIO**  
**SECOND APPELLATE DISTRICT**  
**CASE SUMMARIES**  
**October 6, 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: *State of Ohio v. Jimie A. Hess*  
Case No: Champaign C.A. No. 2022-CA-24; T.C. Case No. 2022 CR 130  
Panel: Welbaum, Tucker, Epley  
Author: Michael L. Tucker  
Summary: The trial court did not commit plain error by failing to merge appellant's convictions on three counts of aggravated possession of drugs. Also, the sentences imposed by the trial court were not contrary to law, and the trial court did not err by imposing a consecutive sentence for one of the offenses. Judgment affirmed.

Case Name: *State of Ohio v. Ryan Allen*  
Case No: Clark C.A. No. 2023-CA-6;  
T.C. Case Nos. 22-CR-0508; 22-CR-0680  
Panel: Tucker, Lewis, Huffman  
Author: Michael L. Tucker  
Summary: The trial court did not err in joining two indictments for a single jury trial where the prosecution's evidence was simple and direct. Appellant's convictions on two charges of violating a civil protection order were supported by legally sufficient evidence and were not against the weight of the evidence. The trial court abused its discretion in imposing certain special conditions of community control insofar as the conditions were unreasonably overbroad. The record does not portray ineffective assistance of appellant's trial counsel. Judgments affirmed in part, reversed in part, and remanded for resentencing.

Case Name: *State of Ohio v. James Robert Evans*  
Case No: Champaign C.A. No. 2023-CA-10; T.C. Case No. 2022 CR 242  
Panel: Tucker, Lewis, Huffman  
Author: Michael L. Tucker  
Summary: Appellant pleaded guilty to two felonies: assault on a peace officer and obstructing official business. The trial court imposed a prison term on each count and ordered that the prison terms be served

consecutively. These sentences were not contrary to law. In addition, the trial court made the findings necessary for the imposition of consecutive sentences, and the record does not clearly and convincingly fail to support those findings. Judgment affirmed.

Case Name: *State of Ohio v. Markus Zachman*  
Case No: Clark C.A. No. 2023-CA-10; T.C. Case No. 22-CR-0876  
Panel: Tucker, Lewis, Huffman  
Author: Mary K. Huffman  
Summary: The trial court erred in imposing post-release control (“PRC”) for failure to comply with an order or signal of a police officer, and the State concedes the error. Because his offense was a third-degree felony offense of violence, appellant was subject to mandatory PRC for up to three years but not less than a year. The trial court incorrectly advised him at sentencing that he “could be” placed on PRC for up to two years, and the judgment entry incorrectly stated that PRC was optional for up to two years and could be increased to a maximum term of eight years. Further, the trial court failed to advise appellant at sentencing of the consequences of violating PRC. Although not raised by the parties, we conclude that the trial court also failed to properly determine appellant’s jail-time credit. Judgment affirmed in part, reversed in part, and remanded for resentencing on PRC and jail-time credit only.

Case Name: *State of Ohio v. Michael D. Harwell*  
Case No: Montgomery C.A. No. 29793; T.C. Case No. 2012CR02367  
Panel: Tucker, Lewis, Huffman  
Author: Mary K. Huffman  
Summary: The trial court did not abuse its discretion in denying appellant’s motion for leave to file a motion to vacate his 2013 conviction or for a new trial. The evidence that any potential DNA on shell casings from the scene of the shooting had been contaminated by a firearm examiner was not newly discovered evidence and did not create a strong probability of a different result at trial, given the overwhelming evidence of appellant’s guilt. Judgment affirmed.

Case Name: *State of Ohio (City of Trotwood) v. Corey F. Simmons*  
Case No: Montgomery C.A. No. 29749; T.C. Case No. 2022 CRB 01229 W  
Panel: Welbaum, Tucker, Epley  
Author: Christopher B. Epley  
Summary: Appeal from appellant’s misdemeanor theft conviction is moot; appellant completely served his sentence. Appeal dismissed.

Case Name: *State of Ohio v. Johnny Lee Trigg*  
Case No: Montgomery C.A. No. 29637; T.C. Case No. 2022 CR 01448  
Panel: Welbaum, Tucker, Epley  
Author: Jeffrey M. Welbaum  
Summary: Appellant's statements during an interview with detectives were not subject to suppression because he did not unambiguously or unequivocally invoke his right to counsel during the interview. The trial court did not abuse its discretion by denying appellant's request for a self-defense jury instruction after appellant testified that he shot the victim while the victim was running away from him. Appellant's claim that his trial counsel provided ineffective assistance by failing to include all necessary facts regarding his self-defense claim in the written notice required by Crim.R. 12.2. lacks merit; appellant cannot establish that he was prejudiced by counsel's failure. Judgment affirmed.

Case Name: *State of Ohio v. Olalekan Adekunle Adeshina*  
Case No: Montgomery C.A. No. 29706; T.C. Case No. 2022 CR 00875  
Panel: Welbaum, Tucker, Epley  
Author: Jeffrey M. Welbaum  
Summary: By entering a guilty plea, appellant waived his right to challenge the trial court's ruling on his motion to suppress. The State concedes, and we agree, that the trial court erroneously imposed a mandatory five-year term of post-release control for appellant's fifth-degree-felony offense of attempt to commit gross sexual imposition. However, the trial court did not err by failing to address certain discretionary fines at sentencing; the omission of any reference to the fines at the sentencing hearing and in the judgment entry simply indicated that no fine was imposed. Judgment reversed only as to post-release control and remanded to impose the appropriate term of post-release control. In all other respects, judgment affirmed.