

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
November 3, 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: *Animal Control v. Nicole M. Keller*
Case No: Greene C.A. No. 2022-CA-49; T.C. Case Nos. CRB2100837A; CRB2100965A; CRB2100965B; CRB2100966A; CRB2100966B
Panel: Welbaum, Tucker, Epley
Author: Michael L. Tucker
Summary: The lack of reference to a statutory subsection in appellant's misdemeanor complaint did not deprive the trial court of subject-matter jurisdiction or render appellant's no-contest plea invalid. The trial court did not abuse its discretion in ordering appellant's two dogs to be euthanized. Judgments affirmed.

Case Name: *Tipp City Educ. Ass'n., et al. v. Tipp City Exempted Village School District Bd. of Educ.*
Case No: Miami C.A. No. 2023-CA-16; T.C. Case No. 23 CV 90
Panel: Epley, Lewis, Huffman
Author: Mary K. Huffman
Summary: The trial court erred in sustaining appellee-school district's motion to dismiss under Civ.R. 12(B)(1) for lack of subject matter jurisdiction as to appellant-labor union. The Ohio State Employment Relations Board did not have exclusive jurisdiction over the claims alleged by the union in the complaint, because the allegations arose from the parties' collective bargaining agreement and the claims did not constitute unfair labor practices as set forth in R.C. 4117.11. However, a teacher-employee who was not a party to the collective bargaining agreement could not bring a private lawsuit under R.C. Chapter 4117. Judgment affirmed in part and reversed in part.

Case Name: *State of Ohio v. Javalen L. Wolfe*
Case No: Montgomery C.A. No. 29857; T.C. Case No. 1993 CR 00556
Panel: Epley, Lewis, Huffman
Author: Mary K. Huffman
Summary: The trial court did not err in overruling appellant's motion for resentencing and motion to enter a dilatory plea. All of the issues in

appellant's motions had been previously raised and were barred by res judicata. Judgment affirmed.

Case Name: *State of Ohio v. Pierre Colquitt*
Case No: Clark C.A. No. 2023-CA-14; T.C. Case No. 20 TRC 02929
Panel: Epley, Lewis, Huffman
Author: Christopher B. Epley
Summary: Appellant, who represented himself at his misdemeanor trial, was not denied a fair trial due to the trial court's giving instructions regarding proper courtroom procedures in front of the jury. Appellant did not establish any error in the trial court's notification of the amount of jail time credit. Judgment affirmed.

Case Name: *State of Ohio v. Shannon McDaniel*
Case No: Darke C.A. No. 2023-CA-9; T.C. Case No. 20CR00049
Panel: Epley, Lewis, Huffman
Author: Christopher B. Epley
Summary: The trial court did not abuse its discretion when it denied appellant's post-sentence motion to withdraw his guilty plea without a hearing; appellant did not suffer a manifest injustice. Judgment affirmed.

Case Name: *State of Ohio v. Joe Eldridge*
Case No: Greene C.A. No. 2022-CA-52;
T.C. Case Nos. 2022 CR 0268; 2022 CR 0375
Panel: Tucker, Lewis, Huffman
Author: Ronald C. Lewis
Summary: The trial court did not abuse its discretion in allowing statements into evidence under the excited utterance exception to the rule against hearsay or in limiting appellant's cross-examination of a State's witness. Appellant's convictions for failure to comply with an order or signal of a police officer were not against the manifest weight of the evidence and were supported by sufficient evidence. Judgments affirmed.

Case Name: *Lijian Chen Ph.D. v. University of Dayton*
Case No: Montgomery C.A. No. 29781; T.C. Case No. 2021 CV 00238
Panel: Welbaum, Tucker, Lewis
Author: Ronald C. Lewis
Summary: Appellant, a former tenure-track professor, appealed the trial court's grant of summary judgment to the university on his breach of contract claim related to the denial of his application for promotion and tenure. The trial court did not abuse its discretion in denying appellant's Civ.R. 56(F) motion. The trial court did not err in concluding that appellant was required to exhaust the university's internal administrative remedies prior to filing his breach of contract claim. The trial court did not err in granting judgment, as a matter of law, to

the university on appellant's breach of contract claim. Judgment affirmed.

Case Name: *State of Ohio v. Doshie G. Bond*
Case No: Montgomery C.A. No. 29794; T.C. Case No. 2021 CR 03825
Panel: Epley, Lewis, Huffman
Author: Ronald C. Lewis
Summary: The trial court erred by proceeding with a resentencing hearing at which defendant-appellant was not represented by counsel. However, the trial court's failure to advise appellant of his appellate rights at the resentencing hearing was harmless error because he filed a timely notice of appeal and was appointed counsel to represent him on appeal. Appellant's remaining arguments are barred by res judicata because he failed to raise them in his direct appeal. Judgment affirmed in part, reversed in part, and remanded for resentencing.