

**THE COURT OF APPEALS OF OHIO**  
**SECOND APPELLATE DISTRICT**  
**CASE SUMMARIES**  
**February 24, 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: *In re: N.S.*  
Case No: Montgomery C.A. No. 29599; T.C. Case No. G-2017-006188-00-0Q  
Panel: Welbaum, Epley, Lewis  
Author: Ronald C. Lewis  
Summary: The trial court did not abuse its discretion in finding that it was in a child's best interest to grant permanent custody of the child to Children's Services; the child had bonded with her foster family and there were significant concerns about placing the child with her mother, father, or maternal grandmother. Judgment affirmed.

Case Name: *State of Ohio v. Danielle Dudley*  
Case No: Montgomery C.A. No. 29528; T.C. Case No. 2021 CR 00082  
Panel: Welbaum, Epley, Lewis  
Author: Ronald C. Lewis  
Summary: Appellant's conviction for felonious assault was not against the manifest weight of the evidence. Judgment affirmed.

Case Name: *Monogram Credit Card Bank of Georgia v. Chris Yoakum*  
Case No: Montgomery C.A. No. 29533; T.C. Case No. 99CVF677  
Panel: Welbaum, Epley, Lewis  
Author: Ronald C. Lewis  
Summary: The trial court erred by not holding an evidentiary hearing on appellant's motion to vacate a prior judgment against her where appellant's affidavit, if credited, provided sufficient evidence to rebut the presumption of proper service. Judgment reversed and remanded.

Case Name: *Catherine Sweet v. David Sweet*  
Case No: Greene C.A. No. 2022-CA-50; T.C. Case No. 2012 DR 0171  
Panel: Tucker, Epley, Lewis  
Author: Ronald C. Lewis  
Summary: The trial court did not abuse its discretion in terminating child support where appellant failed to object to the child support enforcement

agency's determination that the child subject to the support order had turned 18 years of age and was no longer attending full-time an accredited high school. Judgment affirmed.

Case Name: *USPG Portfolio Six, LLC v. Dick's Sporting Goods, Inc.*  
Case No: Clark C.A. No. 2022-CA-42; T.C. Case No. 19CV0392  
Panel: Welbaum, Tucker, Lewis  
Author: Jeffrey M. Welbaum  
Summary: The trial court erred in granting summary judgment in lessor-appellee's favor because there were genuine issues of material fact concerning whether equitable estoppel and waiver applied to the lessor's conduct. Other issues as to interpretation of the lease agreement were not raised in the trial court, and consideration of these issues under the plain error doctrine is unnecessary because the summary judgment is being reversed. Judgment reversed and remanded.

Case Name: *MWL Enterprises LLC v. Mid-Miami Investment Co. et al.*  
Case No: Montgomery C.A. No. 29445; T.C. Case No. 2019 CV 01651  
Panel: Welbaum, Tucker, Lewis  
Author: Jeffrey M. Welbaum  
Summary: In a dispute over easements, the trial court did not err in denying appellant's motion for sanctions under R.C. 2323.51, as cross-appellant's motion for contempt was not frivolous. The trial court correctly noted that a reasonable lawyer could have argued that the circumstances surrounding a prior injunction granted against appellant were similar to the circumstances that led cross-appellant to file the contempt motion. The trial court also did not err in denying cross-appellant's contempt motion, as the appellant had not yet taken any action. Instead, appellant had simply threatened to take action concerning the easements involved in the prior injunction. Judgment affirmed.

Case Name: *State of Ohio v. Carmen L. Dyer*  
Case No: Greene C.A. No. 2022-CA-36; T.C. Case No. 21 CRB 00888  
Panel: Welbaum, Tucker, Epley  
Author: Jeffrey M. Welbaum  
Summary: Appellant's domestic violence conviction was not based on insufficient evidence. Appellant's testimony conflicted with that of the arresting officer, and construing the evidence in the State's favor, any rational finder of fact could have concluded that appellant knowingly attempted to cause physical harm to a family member. Judgment affirmed.

Case Name: *State of Ohio v. Nathan Towe*  
Case No: Miami C.A. No. 2022-CA-18; T.C. Case No. 21CR291  
Panel: Tucker, Epley, Lewis  
Author: Christopher B. Epley  
Summary: *Anders* appeal. After admitting to a violation of his community control, the trial court continued appellant's community control, but ordered him to serve 94 days in jail and to pay court costs. Because appellant has served his jail sentence and his community control has been terminated, any claim related to his violation hearing or the court's jail sentence is moot. No arguably meritorious issue exists concerning the order to pay court costs. Judgment affirmed.

### **DECISION AND FINAL JUDGMENT ENTRY RENDERED FEBRUARY 17, 2023**

Case Name: *Y.A.B. ex rel. E.E.W., Jr. v. Judge Helen Wallace*  
Case No. Montgomery C.A. No. 29529  
Panel: Welbaum, Tucker, Lewis  
Author: Per Curiam  
Summary: Relator, an inmate incarcerated in Kentucky, did not prove clearly and convincingly that the respondents, a juvenile court judge and magistrate, completely failed to comply with constitutional due process in their exercise of personal jurisdiction over his child support obligation. Juvenile court records demonstrate that relator was an Ohio resident when the obligation was established, and there is no evidence that the respondents lack continuing exclusive jurisdiction to modify and enforce the obligation. Writ of prohibition denied.