

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
March 17, 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. David W. King*
Case No: Greene C.A. No. 2022-CA-38; T.C. Case No. 2020CR0467
Panel: Tucker, Epley, Lewis
Author: Ronald C. Lewis
Summary: The trial court did not err in imposing a maximum prison sentence for a fourth-degree felony offense of violence. Judgment affirmed.

Case Name: *State of Ohio v. Delmar Works*
Case No: Montgomery C.A. No. 29460; T.C. Case No. 2021 CR 02306
Panel: Tucker, Epley, Lewis
Author: Ronald C. Lewis
Summary: The trial court abused its discretion in finding that appellant had violated his community control sanctions. Judgment reversed.

Case Name: *Erica Dunbar v. Joe Beacom, et al.*
Case No: Miami C.A. No. 2022-CA-19; T.C. Case No. 22 CV 90
Panel: Tucker, Welbaum, Lewis
Author: Ronald C. Lewis
Summary: The trial court erred in granting summary judgment in favor of appellant-driver, who struck a pedestrian with his truck, because there were genuine issues of material fact as to where the pedestrian was standing when she was struck and whether appellant should have seen her sufficiently in advance to avoid striking her. Judgment reversed and remanded.

Case Name: *State of Ohio v. Michael J. Baker*
Case No: Montgomery C.A. No. 29546; T.C. Case No. 2019 CR 01766
Panel: Welbaum, Tucker, Huffman
Author: Jeffrey M. Welbaum
Summary: The trial court erred by ordering appellant to pay sanctions for filing a frivolous appeal. The trial court had no authority to determine whether the appeal was frivolous and whether to impose sanctions on that basis. Pursuant to App.R. 23, those determinations are solely for the appellate court. Judgment vacated.

Case Name: *State of Ohio v. Ein Hisel*
Case No: Montgomery C.A. No. 29322; T.C. Case No. 2021 CR 1339
Panel: Welbaum, Epley, Lewis
Author: Jeffrey M. Welbaum
Summary: Appellate counsel filed a brief pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), having found no non-frivolous issues for appeal. An examination of the record reveals no non-frivolous issues having arguable merit. Judgment affirmed.

Case Name: *State of Ohio v. Luke Adams*
Case No: Clark C.A. No. 2022-CA-21; T.C. Case No. 21-CR-0777
Panel: Welbaum, Tucker, Huffman
Author: Michael L. Tucker
Summary: Following a jury trial, appellant was convicted of receiving stolen property and failure to comply. The verdicts were supported by sufficient evidence and were not against the manifest weight of the evidence. The State presented the expert testimony of the forensic scientist who concluded that appellant's DNA matched the DNA discovered on a baseball cap and a vehicle's airbag, but the State did not introduce the testimony of the person who prepared the DNA samples for analysis. This failure did not constitute a Confrontation Clause violation. Finally, the trial court instructed the jury that "the unexplained possession by the defendant of the recently stolen property may give rise to a permissive inference from which you may conclude beyond a reasonable doubt, that the defendant is guilty of receiving stolen property." This instruction did not violate appellant's right to remain silent. Judgment affirmed.

Case Name: *State of Ohio v. George Haynes*
Case No: Montgomery C.A. No. 29545; T.C. Case No. 2021 CR 03261
Panel: Welbaum, Tucker, Huffman
Author: Michael L. Tucker
Summary: The trial court did not violate appellant's plea agreement by imposing an indeterminate prison term of 10 years minimum to 15 years maximum under the Reagan Tokes Act. Judgment affirmed.

Case Name: *State of Ohio v. Daniel Alan Collins, Jr.*
Case No: Champaign C.A. No. 2022-CA-13; T.C. Case No. 2022 CR 031
Panel: Tucker, Epley, Lewis
Author: Michael L. Tucker
Summary: Appellant was convicted of escape as a second-degree felony because the charges pending against him at the time of the escape included first-degree felonies. Based on the evidence that the charges pending against appellant at the time of the attempted escape included two counts of aggravated robbery, which is a first-

degree felony, and defense counsel's admission that the pending charges had included aggravated robberies, there was sufficient evidence to support the escape conviction as a second-degree felony. The escape conviction also was not against the manifest weight of the evidence. Appellant's competence to stand trial was not raised in this case, but counsel informed the court that appellant's competence had been raised (but not determined) in criminal proceedings pending in two other counties. Before the trial began, the trial court discussed this issue with counsel and appellant at length. Contrary to appellant's assertion, this discussion was not a competency hearing. Moreover, nothing that occurred or was discussed would have reasonably triggered a concern regarding appellant's competency to stand trial. Judgment affirmed.