

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
March 24, 2023

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Case Name: *State of Ohio v. Davon L. Hunt*
Case No: Clark C.A. No. 2022-CA-40; T.C. Case No. 21-CR-0165A
Panel: Epley, Lewis, Huffman
Author: Christopher B. Epley
Summary: Appellant's convictions for discharge of a firearm on or near a prohibited premises, having weapons while under disability, and carrying a concealed weapon were supported by sufficient evidence and were not against the manifest weight of the evidence. Judgment affirmed.

Case Name: *State of Ohio v. James D. Williams IV*
Case No: Greene C.A. No. 2022-CA-55;
T.C. Case Nos. 2022CR0190; 2022CR0313
Panel: Epley, Lewis, Huffman
Author: Christopher B. Epley
Summary: Appellant appeals from trial court's judgments, in two separate cases, finding him incompetent to stand trial and ordering treatment to restore his competency. The trial court's orders that appellant undergo a competency evaluation and scheduling a hearing were encompassed within the final order on appeal. The trial court did not err in ordering the competency hearing and did not abuse its discretion in requiring a competency evaluation. Appellant's claim that the trial court erred in denying his request to represent himself was outside the scope of the appeal. Judgments affirmed.

Case Name: *In re Z.C., Z.L.C., J.E.*
Case No: Montgomery C.A. No. 29616; T.C. Case Nos. C-2020-004524-0C;
G-2020-004525-0O; G-2020-004526-0L; G-2021-000984-0J
Panel: Epley, Lewis, Huffman
Author: Ronald C. Lewis
Summary: The trial court did not abuse its discretion in denying Mother's request to supplement the record with additional evidence, where the evidence could have been produced with reasonable diligence prior

to the hearing before the magistrate. The trial court did not abuse its discretion in overruling Mother's objections to the magistrate's decision and granting legal custody of Mother's three minor children to maternal great-grandmother. Judgments affirmed.

Case Name: *State of Ohio v. Michael Wroten*
Case No: Montgomery C.A. No. 29489; T.C. Case No. 2021 CR 01814
Panel: Welbaum, Tucker, Huffman
Author: Jeffrey M. Welbaum
Summary: The trial court did not err in denying appellant's motion to withdraw his guilty plea. The court did incorrectly conclude that the motion should be evaluated as a post-sentence motion to withdraw. However, the sentence was agreed-upon and the trial court stated during the plea hearing that it would apply the agreed sentence. In such situations, a motion to withdraw a plea should be considered under pre-sentence standards. No abuse of discretion occurred, however, because the trial court did apply nine factors that are traditionally applied to pre-sentence motions to withdraw. The court's decision to deny the motion was not unreasonable, as appellant lacked credibility and did not have a reasonable and legitimate reason for withdrawing his guilty plea. Further, in accepting the plea, the trial court did fail to completely comply with Crim.R.11(C)(2)(a)'s "maximum-penalty-advisement," because the court failed to discuss community notification and residency requirements for sex offenders during the plea hearing. Appellant failed to show any prejudice, however, as his testimony during the plea withdrawal hearings was inconsistent and lacked credibility. Judgment affirmed.

Case Name: *Evil Empire, LLC, et al. v. City of Troy Bd. of Zoning Appeals, et al.*
Case No: Miami C.A. No. 2022-CA-25; T.C. Case No. 21 CV 378
Panel: Tucker, Epley, Lewis
Author: Michael L. Tucker
Summary: The trial court did not err in reversing Troy Board of Zoning Appeals' decision approving appellant's application for a certificate of appropriateness to demolish a building in the city's historic district. The trial court correctly held that the BZA could not overlook appellant's failure to satisfy prerequisites to the issuance of a certificate of appropriateness and allow appellant to satisfy them later. The BZA's decision was not a valid exercise of its authority to "modify" appellant's application. In effect, the BZA's decision impermissibly modified the requirements of Troy Zoning Code governing the issuance of a certificate of appropriateness. Judgment affirmed.

Case Name: *The Lamar Company, LLC dba Lamar Advertising of Dayton v. City of Beavercreek, et al.*
Case No: Greene C.A. No. 2022-CA-41; T.C. Case No. 2021 CV 0474
Panel: Welbaum, Tucker, Lewis
Author: Michael L. Tucker
Summary: The trial court did not err in upholding appellee-city's denial of appellant's application to erect a digital-billboard on property that is part of a commercial planned-unit development. The proposed sign was not allowed under the terms of a governing sign-program document, which explicitly identified "the total signage" for the completed planned-unit-development project. Judgment affirmed.

Case Name: *State of Ohio v. Justin W. Bowshier*
Case No: Clark C.A. No. 2022-CA-41; T.C. Case No. 21CR0331
Panel: Epley, Lewis, Huffman
Author: Mary Katherine Huffman
Summary: *Anders* appeal. Appellant knowingly, intelligently, and voluntarily entered his guilty plea. There are no issues of arguable merit to consider on appeal. Judgment affirmed.

Case Name: *State of Ohio v. Jamal L. Fleming*
Case No: Clark C.A. No. 2022-CA-48; T.C. Case No. 20-CR-0416
Panel: Welbaum, Tucker, Huffman
Author: Mary Katherine Huffman
Summary: Upon remand for resentencing, the trial court made the consecutive-sentence findings under R.C. 2929.14(C)(4), and we cannot find that the court's finding pursuant to R.C. 2929.14(C)(4)(c) was not supported by the record under the clear-and-convincing standard provided by R.C. 2953.08(G)(2). The trial court's failure to reduce the amount of jail-time credit to a number of days, as required by R.C. 2949.08(B), along with the absence of any opportunity for appellant to be heard on the issue of jail-time credit, requires reversing in part and remanding for the court to properly address jail-time credit. In all other respects, judgment affirmed.