

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
March 31, 2023

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Case Name: *Leslie Crawford v. American Family Insurance Company et al.*
Case No: Montgomery C.A. No. 29588; T.C. Case No. 2019 CV 05973
Panel: Tucker, Lewis, Huffman
Author: Ronald C. Lewis
Summary: In this bad faith action based on an uninsured motorists' claim, the trial court erred in granting summary judgment in appellee-insurer's favor. The court incorrectly established a blanket rule that insured claimants are required, as a matter of law, to provide expert testimony in bad faith cases. There is no basis for imposing such a standard as a matter of law, and the circumstances of each case should be considered. Furthermore, even if an expert were needed, the deposition of appellee's claims adjuster provided sufficient evidence of standards and what conduct would be required to avoid a bad faith claim. Finally, while appellee contends that the judgment should be affirmed on alternate grounds, the record clearly indicates that the trial court failed to consider evidentiary materials that were submitted. Under these circumstances, we decline to conduct a de novo review of an alternate argument. Judgment reversed and remanded.

Case Name: *Dawn A. Gibson v. Robert J. Gibson*
Case No: Montgomery C.A. No. 29580; T.C. Case No. 2011 DR 01008
Panel: Welbaum, Epley, Lewis
Author: Jeffrey M. Welbaum
Summary: The trial court did not abuse its discretion by administratively issuing an order terminating appellee's spousal support obligation before ruling on appellant's previously-filed motion to modify spousal support; the time frame of the spousal support obligation set forth in the final judgment and decree of divorce had expired, and the trial court did not have authority to modify the duration of that obligation. The issue of whether the order terminating spousal support divested the trial court of jurisdiction to rule on appellant's motion to modify spousal support is not ripe for this court's review, because the trial court never rendered a judgment on that issue. Judgment affirmed.

Case Name: *State of Ohio v. Roger Grout*
Case No: Clark C.A. No. 2022-CA-23; T.C. Case No. 21-CR-0600
Panel: Welbaum, Lewis, Huffman
Author: Jeffrey M. Welbaum
Summary: The 30-month prison term imposed by the trial court for appellant's fourth-degree-felony offense of operating a vehicle under the influence was contrary to law because the trial court failed to indicate that 60-days of the 30-month term was mandatory per R.C. 2929.13(G). The trial court also erred at sentencing by failing to specify the number of days of jail-time credit that appellant would receive against his prison sentence. Judgment affirmed in part, reversed in part, and remanded for resentencing.

Case Name: *Erica Barga v. Village Council of the Village of St. Paris*
Case No: Champaign C.A. No. 2022-CA-14; T.C. Case No. 2020 CV 142
Panel: Welbaum, Tucker, Epley
Author: Michael L. Tucker
Summary: Following a hearing before the village council, appellant was terminated from her position as police chief. In the subsequent administrative appeal, the trial court affirmed the dismissal, but it did not apply the required de novo standard of review; thus, we reverse of the trial court's judgment and remand for review of the termination decision de novo. The village council did not violate the Open Meetings Act, R.C. 121.22, by conducting its deliberations in executive session. Because the trial court will conduct a de novo review on remand, any error that occurred due to the village solicitor's presence during a portion of the executive session deliberations is harmless. Appellant's initial one-day suspension did not comport with R.C. 737.171, but this failure did not affect council's termination decision. In light of our remand for a de novo review, we need not consider appellant's other assignments of error. Judgment affirmed in part, reversed in part, and remanded for further proceedings.

Case Name: *State of Ohio v. Darrell A. Sickels III*
Case No: Clark C.A. No. 2022-CA-60; T.C. Case No. 21-CR-0611
Panel: Welbaum, Tucker, Huffman
Author: Mary Katherine Huffman
Summary: Appellant's conviction for aggravated burglary (menacing/abduction) was supported by sufficient evidence and was not against the manifest weight of the evidence; the victim described appellant's forcible entry into her home while brandishing a loaded firearm. Appellant's sentence to a minimum of five years and a maximum of seven and a half years, plus a consecutive three years for the firearm specification, was not contrary to law. Judgment affirmed.

Case Name: *Charla Brent v. Darrell Siler*
Case No: Montgomery C.A. No. 29624; T.C. Case No. 2022 CV 04031
Panel: Epley, Lewis, Huffman
Author: Mary Katherine Huffman
Summary: Appellant did not timely file objections to the magistrate's decision granting a civil stalking protection order before filing his appeal. The magistrate's decision and trial court's order adopting it were supported by competent, credible evidence. Judgment affirmed.

Case Name: *State of Ohio v. Charles DD Stutz*
Case No: Montgomery C.A. No. 29521; T.C. Case No. 2020 CR 01817
Panel: Epley, Lewis, Huffman
Author: Christopher B. Epley
Summary: The trial court did not err by not merging appellant's convictions as they were not allied offenses. Similarly, it was not an error for the court to accept his guilty plea, as there was partial compliance with Crim.R. 11(C) and appellant could not demonstrate prejudice. However, the trial court did err by classifying appellant as a Tier I sex offender; R.C. 2950.01(F)(1)(a) plainly reads that a person who violates R.C. 2907.322 must be classified as a Tier II sex offender. Judgment affirmed in part, reversed in part, and remanded.