

**THE COURT OF APPEALS OF OHIO**  
**SECOND APPELLATE DISTRICT**  
**CASE SUMMARIES**  
**April 19, 2024**

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 S.M.J.*  
Case No: Greene C.A. No. 2023-CA-54; T.C. Case No. C0040082-0B  
Panel: Epley, Welbaum, Tucker  
Author: Jeffrey M. Welbaum  
Summary: In light of appellant's repeated failure to pay child support, the trial court did not abuse its discretion in finding that appellant failed to comply with purge conditions for a second contempt or in requiring him to serve the remainder of a previously imposed 60-day jail sentence. Concerning a third contempt finding for failure to pay child support, appellant did not object to a magistrate's decision finding him in contempt, and there was no plain error; appellant admittedly failed to pay as ordered. The court also did not abuse its discretion when, during a later hearing, it suspended the 90-day sentence for the third contempt and imposed purge conditions. Given appellant's conduct and failure to provide any documentation of his excuses for non-payment, the court's decision was reasonable. Judgment affirmed.

Case Name: *State of Ohio v. Bracy Hamilton Elton*  
Case No: Greene C.A. No. 2023-CA-62; T.C. Case No. 23 TRD 01671  
Panel: Welbaum, Lewis, Huffman  
Author: Jeffrey M. Welbaum  
Summary: The mandate in R.C. 4511.55(A) requiring bicyclists to ride their bicycles "as near to the right side of the roadway as practicable" is not unconstitutionally vague; it provides sufficient notice of its proscriptions and contains reasonably clear guidelines to prevent arbitrariness or discrimination in its enforcement. In addition, the trial court did not err as a matter of law or rule against the manifest weight of the evidence by failing to find that an exception in R.C. 4511.55(C) relieved appellant of the obligation to ride as near to the right side of the roadway as practicable. Judgment affirmed.

Case Name: *In The Matter of The Estate of Martha Taylor*  
Case No: Montgomery C.A. No. 29906; T.C. Case No. 2022 EST 01100  
Panel: Welbaum, Lewis, Huffman  
Author: Jeffrey M. Welbaum  
Summary: Because appellant failed to object to a magistrate's decision, alleged error is reviewed for plain error only. Although the trial court could have construed appellant's pleading as an attempt to file a will contest, it did not err in failing to do so. Appellant never sought to amend the pleading to add parties that were necessary to a will contest under R.C. 2107.73, which was grounds for dismissing such an action. More importantly, appellant failed to comply with requirements for commencing such an action, like requesting service and filing an affidavit of indigency. There was no plain error. Judgment affirmed.

Case Name: *State of Ohio v. Joseph Michael Tackett*  
Case No: Clark C.A. No. 2023-CA-57; T.C. Case No. 22-CR-753(A)  
Panel: Welbaum, Lewis, Huffman  
Author: Mary K. Huffman  
Summary: The trial court did not abuse its discretion in admitting hearsay testimony in a community control revocation proceeding. Judgment affirmed.

Case Name: *State of Ohio v. Brad Thomas*  
Case No: Montgomery C.A. No. 29884; T.C. Case No. 2019 CR 02932  
Panel: Epley, Tucker, Huffman  
Author: Mary K. Huffman  
Summary: Appellant admitted to violating the terms and conditions of his community control sanctions, and he has not demonstrated plain error in the trial court's acceptance of his admission and imposition of a prison sentence. Judgment affirmed.

Case Name: *Sharon A. Leithauser v. Daniel E. Leithauser*  
Case No: Clark C.A. No. 2023-CA-43; T.C. Case No. 21-DR-0015  
Panel: Welbaum, Lewis, Huffman  
Author: Mary K. Huffman  
Summary: The trial court erred in finding that a debt due to husband's parents was not a marital debt, as wife failed to establish the debt was husband's alone. The parol evidence rule did not apply because husband's parents were not attempting to enforce the debt; rather, it was subject to equitable distribution in the court's division of marital assets and liabilities. Judgment reversed with respect to the division of marital property and remanded for further proceedings related to that issue. In all other respects, judgment affirmed.

Case Name: *State of Ohio v. Gregory C. Yount*  
Case No: Miami C.A. No. 2023-CA-5; T.C. Case No. 22CR554  
Panel: Epley, Tucker, Lewis  
Author: Christopher B. Epley  
Summary: Appellant's guilty plea waived any argument that his speedy trial rights had been violated. Appellant's double jeopardy rights were not violated because he was not punished twice for the same conduct; although another charge appears to have been dismissed before he was indicted in this case, he was not convicted or sentenced on that offense. There is no evidence to support appellant's claim that the State agreed to remain silent as to the sentence, and thus his assertion that the State reneged on such a promise is without merit. Judgment affirmed.