

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
April 21, 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. Joseph Watts*
Case No: Clark C.A. No. 2022-CA-49; T.C. Case No. 21-CR-145
Panel: Welbaum, Tucker, Huffman
Author: Mary K. Huffman
Summary: *Anders* appeal. Appellate counsel found no issues with arguable merit to advance on appeal. Pursuant to our independent review, we also find no potentially meritorious issues. The trial court complied with Crim.R. 11(C) in accepting appellant's guilty pleas to two counts of rape, and the agreed consecutive sentence is not reviewable on appeal. Judgment affirmed.

Case Name: *Nawal K. Pandey v. City of Piqua Board of Zoning Appeals, et al.*
Case No: Miami C.A. No. 2022-CA-24; T.C. Case No. 21 CV 00178
Panel: Welbaum, Epley, Huffman
Author: Mary K. Huffman
Summary: Appellant did not exhaust his administrative remedies before filing a complaint for an injunction. The trial court granted summary judgment in favor of appellees, finding that the court lacked subject matter jurisdiction on the matter of appellant's complaint for injunction, as appellant's failure to file an administrative appeal was fatal to his claim. Appellant argued that the right to effective assistance of counsel applied in a civil action related to an administrative determination, and thus the summary judgment granted by the trial court must be reversed. However, the Sixth Amendment right to effective assistance of counsel has not been extended beyond criminal and permanent custody proceedings and, thus, did not attach to appellant's civil action. Judgment affirmed.

Case Name: *Jeffrey B. Peterson v. Rachel L. Booth, et al.*
Case No: Montgomery C.A. No. 29504; T.C. Case No. 20CVF2867
Panel: Welbaum, Epley, Huffman
Author: Christopher B. Epley
Summary: The trial court erred by granting judgment against appellant as to a replevin claim and in granting appellant personal items as a matter

of equity. The trial court did not err in ruling against appellant on a conversion claim; the trial court's finding that the disputed joint property belonged to the parties' business was not against the manifest weight of the evidence. Judgment reversed and remanded with respect to the replevin claim, and judgment affirmed with respect to the conversion claim.

Case Name: *Reuben Beavers v. State of Ohio*
Case No: Montgomery C.A. No. 29618; T.C. Case No. 2021 CV 3836
Panel: Welbaum, Epley, Huffman
Author: Christopher B. Epley
Summary: The trial court erred in granting summary judgment to appellee on his claim that he was a wrongfully imprisoned individual under R.C. 2743.48. Appellee did not establish, as a matter of law, that there was an error in procedure. Genuine issues of material fact existed as to whether he was actually innocent of the offenses. Judgment reversed and remanded.

Case Name: *State of Ohio v. Bryant M. Cencebaugh*
Case No: Montgomery C.A. No. 29531; T.C. Case No. 2021 CR 03291
Panel: Welbaum, Epley, Lewis
Author: Christopher B. Epley
Summary: Conceded error. The trial court failed to properly provide the notifications required by R.C. 2929.19(B)(2)(c). Judgment reversed and remanded for resentencing.

Case Name: *State of Ohio v. Whitney Taylor McCormick*
Case No: Montgomery C.A. No. 29607;
T.C. Case Nos. 2021 CR 03814; 2021 CR 4209
Panel: Welbaum, Tucker, Lewis
Author: Ronald C. Lewis
Summary: Appellant failed to challenge the constitutionality of the Reagan Tokes Law in the trial court and forfeited her argument on appeal for all but plain error. The trial court's imposition of sentence did not rise to the level of plain error as the relevant statute is constitutional. Furthermore, the sentence imposed by the trial court was not contrary to law. Judgments affirmed.

Case Name: *James Pat Matthews v. Springfield-Clark CTC Board*
Case No: Clark C.A. No. 2022-CA-64; T.C. Case No. 21-CV-0093
Panel: Welbaum, Tucker, Epley
Author: Jeffrey M. Welbaum
Summary: The trial court erred in finding that appellant-board of education violated due process and fundamental fairness when it terminated appellee from a nonteaching custodial position. The trial court also erred in failing to accord any deference to appellant's findings and in

blatantly substituting its judgment for that of appellant. Given these conclusions, appellant's other assignments of error concerning the court's damages award are moot. Judgment reversed and remanded, with instructions for the trial court to affirm appellant's decision to terminate appellee's employment.

Case Name: *State of Ohio v. Patricia Hammer*
Case No: Montgomery C.A. No. 29454; T.C. Case No. 2020 CR 01113/2
Panel: Welbaum, Epley, Huffman
Author: Jeffrey M. Welbaum
Summary: The trial court did not err by overruling appellant's motion to suppress where the warrantless seizure of appellant's person was based on probable cause. Although the officer who detained appellant did not have personal knowledge of the facts on which the probable cause was based, those facts were imputed to the officer via the collective knowledge doctrine. *State v. Armstead*, 2015-Ohio-5010, 50 N.E.3d 1073 (2d Dist.), overruled. Judgment affirmed.

Case Name: *Barclay Square Condominium Owners Assn. v. Jared Ruble, et al.*
Case No: Montgomery C.A. No. 29613; T.C. Case No. 2021 CV 00752
Panel: Welbaum, Epley, Huffman
Author: Jeffrey M. Welbaum
Summary: The trial court did not commit plain error in denying appellant's motion to intervene in a foreclosure action or in finding that appellant was not entitled to excess proceeds resulting from a sale of the premises. Appellant failed to object to the magistrate's decision and also failed to file a transcript of the magistrate's hearing in the trial court. Review, therefore, is limited to plain error, and there was no plain error. Judgment affirmed.