

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
April 7, 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. Crystal Stokes*
Case No: Montgomery C.A. No. 29560; T.C. Case No. 2021 CR 03687
Panel: Welbaum, Tucker, Lewis
Author: Jeffrey M. Welbaum
Summary: The trial court did not err in overruling appellant's motion to suppress. There was no evidence of police coercion or abuse. Furthermore, while appellant claimed she was intoxicated at the time of the interview, the taped interview revealed that she was coherent and was able to understand the detective's questions. There was no evidence that appellant's ability to reason was sufficiently impaired to render her waiver of *Miranda* rights invalid. Judgment affirmed.

Case Name: *State of Ohio v. Roderick Nixon*
Case No: Montgomery C.A. No. 29606; T.C. Case No. 2022 CR 00790
Panel: Welbaum, Tucker, Lewis
Author: Jeffrey M. Welbaum
Summary: The trial court did not err by failing to suppress drug evidence discovered in appellant's vehicle during a lawful traffic stop. Regardless of whether the initial protective search of appellant's vehicle was appropriate, the drugs would have been inevitably discovered during an inventory search that was subsequently conducted of the vehicle. The inventory search was lawful because it was conducted in accordance with the police department's standardized, routine tow policy. Judgment affirmed.

Case Name: *State of Ohio v. Davaun A. Miller*
Case No: Montgomery C.A. No. 29571; T.C. Case No. 2020 CR 03530
Panel: Welbaum, Tucker, Lewis
Author: Michael L. Tucker
Summary: The record contains substantial evidence supporting the trial court's revocation of appellant's community control. The State presented

uncontroverted evidence that appellant violated the conditions of community control by driving a vehicle with knowledge of a firearm and loaded magazine in the center console and by committing felony theft from a retail store. The trial court adequately advised appellant about the mandatory nature of post-release control upon his release from prison. Judgment affirmed.

Case Name: *State of Ohio v. Marquise Burks*
Case No: Montgomery C.A. No. 29629; T.C. Case No. 22-CRB-1496
Panel: Tucker, Epley, Huffman
Author: Mary K. Huffman
Summary: Appellant argues that the trial court erred in ordering the payment of a fine as part of his sentence because the court did not assess his present and future ability to pay. The fines were suspended by the trial court and may never become due. There was evidence that the trial court considered appellant's present and future ability to pay the fines, and appellant never raised an issue in the trial court that he lacked a present or future ability to pay. Judgment affirmed.

Case Name: *Ruby Ann Sowry, Executor of The Estate of Dorothy K. Boggs, Deceased v. Mary Lisa Todd*
Case No: Miami C.A. No. 2022-CA-22; T.C. Case No. 90684A
Panel: Epley, Lewis, Huffman
Author: Christopher B. Epley
Summary: Sisters' settlement of their mother's estate's claim against one of the sisters was not supported by consideration and therefore was not enforceable. Judgment reversed and remanded.

Case Name: *State of Ohio v. Cheyenne Nicole Reed*
Case No: Montgomery C.A. No. 29523; T.C. Case No. 2019 CR 02838/1
Panel: Welbaum, Tucker, Lewis
Author: Ronald C. Lewis
Summary: The trial court did not abuse its discretion when it revoked appellant's community control after appellant admitted to violating her community control sanctions. Further, appellant did not show ineffective assistance of trial counsel. Judgment affirmed.

Case Name: *State of Ohio v. Dylan Dugan*
Case No: Montgomery C.A. No. 29255; T.C. Case No. 2019 CR 03517/1
Panel: Epley, Lewis, Huffman
Author: Ronald C. Lewis
Summary: The trial court did not err in overruling appellant's motion to suppress statements he made in the back of a police cruiser, because he did not unequivocally invoke of his right to remain silent and voluntarily answered questions posed to him. Appellant did not show ineffective assistance of trial counsel due to counsel's not requesting a mistrial

when it became apparent before the jury was impaneled that five of the prospective jurors had read some information about the case. The trial court did not abuse its discretion in allowing the State's DNA expert to testify where the State identified the dates when it disclosed the expert's report to defendant's trial counsel and the record provided support for the State's dates. No plain error was shown in the trial court's decision to allow the testimony of appellant's girlfriend as to statements appellant made to her shortly after a murder. Judgment affirmed.

Case Name: *State of Ohio v. Shaquonne McCurdy*
Case No: Montgomery C.A. No. 29462; T.C. Case No. 2021 CR 00314
Panel: Epley, Lewis, Huffman
Author: Ronald C. Lewis
Summary: The trial court did not err in overruling appellant's motion to suppress statements made following a warrantless arrest. Judgment affirmed.

DECISION AND FINAL JUDGMENT ENTRY RENDERED MARCH 31, 2023

Case Name: *State ex re. Brian Keith Alford v. Montgomery County CSEA*
Case No. Montgomery C.A. No. 29661
Panel: Tucker, Epley, Lewis
Author: Per Curiam
Summary: Relator's petition for a writ of mandamus seeking to compel the Montgomery County Child Support Enforcement Agency to return Economic Impact Payments seized through its federal income tax refund offset program fails because the Internal Revenue Service has disallowed his claim to the funds. Writ denied.