

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
May 12, 2023

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Case Name: *State of Ohio v. Ryan Evensen Hein*
Case No: Montgomery C.A. No. 29668; T.C. Case No. 22-TRC-691
Panel: Welbaum, Tucker, Epley
Author: Jeffrey M. Welbaum
Summary: State's appeal. The trial court erred in granting appellee's motion to suppress evidence. The court made no factual findings to which an appellate court could defer and also erroneously held the State to a probable cause standard for investigatory detention. The State was only required to demonstrate that the police had a reasonable, articulable suspicion of criminal activity. Furthermore, evidence elicited during the suppression hearing revealed that the police did have reasonable, articulable suspicion to detain appellee and to administer a field sobriety test. The test was administered in substantial compliance with applicable standards, and it indicated that appellee was intoxicated. Finally, even without the sobriety test results, the police had probable cause to arrest appellee based on the totality of the circumstances. Judgment reversed and remanded.

Case Name: *State of Ohio v. Andre L. Hampton*
Case No: Montgomery C.A. No. 29612;
T.C. Case Nos. 2021 CR 00756; 2021 CR 03539
Panel: Welbaum, Tucker, Epley
Author: Michael L. Tucker
Summary: Appellant pleaded guilty to several offenses in two cases and was sentenced to a term of community control sanctions (CCS); the alternative sentence was an aggregate 48-month prison term. Thereafter, appellant was alleged to have violated the CCS condition to successfully complete drug treatment. At the CCS revocation hearing, upon learning that the trial court intended to impose a 36-month prison term, appellant admitted to the CCS violation, and the trial court then imposed a 36-month prison term. Appellant's admission was knowing, intelligent, and voluntary. The record reflects the trial court's consideration of R.C. 2929.11 and 2929.12 when it imposed the prison term. Judgments affirmed.

Case Name: *State of Ohio v. Bruce E. Bell*
Case No: Darke C.A. No. 2022-CA-11; T.C. Case No. 22-CR-00006
Panel: Tucker, Lewis, Huffman
Author: Michael L. Tucker
Summary: The trial court did not err in overruling appellant's motion to suppress drug evidence found in the course of a traffic stop. After making a valid stop for failure to display a required license-plate county sticker, an officer approached appellant's car and smelled raw marijuana. This fact entitled the officer to conduct a brief investigation to determine whether a drug offense had been committed. During that investigation, which lasted just minutes, appellant produced a Tupperware container of marijuana. Although appellant held a medical-marijuana card, the raw marijuana was being stored in violation of Ohio's medical-marijuana regulations. Appellant then consented to a full search of his car, which resulted in the discovery of methamphetamine and other contraband. Under these circumstances, the trial court correctly found no constitutional violation and overruled appellant's suppression motion. Judgment affirmed.

Case Name: *State of Ohio v. Darrell Chatman*
Case No: Montgomery C.A. No. 29630; T.C. Case No. 2021 CR 03303
Panel: Welbaum, Tucker, Epley
Author: Michael L. Tucker
Summary: The trial court erred in imposing a driver's-license suspension pursuant to R.C. 2921.331 as part of appellant's sentence following his guilty plea to attempted failure to comply with an order or signal of a police officer. The suspension is authorized as a sanction for a felony violation of R.C. 2921.331, the failure-to-comply statute. But the appellant was not convicted of violating R.C. 2921.331. He was convicted of committing the substantive offense of attempt to commit an offense in violation of R.C. 2923.02. The license-suspension sanction in R.C. 2921.331 does not apply to the offense of attempted failure to comply with an order or signal of a police officer. Pursuant to R.C. 2953.08(G)(2), appellant's three-year driver's-license suspension is vacated. Judgment affirmed as modified.

Case Name: *Christine Betz v. Justin Gist, et al.*
Case No: Montgomery C.A. Nos. 29536; 29679;
T.C. Case No. 2021 CV 05173
Panel: Tucker, Lewis, Huffman
Author: Mary K. Huffman
Summary: In separate appeals, appellants appeal from the trial court's order granting summary judgment in favor of appellee and its denial of their subsequent motion for relief from that judgment. The trial court erred in granting appellee's motion for summary judgment on a note and

foreclosure of a mortgage. Construing the evidence most strongly in favor of appellants, genuine issues of material fact existed regarding whether appellants' obligation to commence payments on the note had been triggered by the alleged completion of the restoration of their home due to fire damage. As it conducts further proceedings in this case, the trial court must determine whether the late fee provision in the note is in the nature of a penalty, rather than to compensate appellee for her alleged loss. Judgment entering summary judgment is reversed and remanded. Appeal from judgment denying relief from judgment is dismissed as moot.