

**THE COURT OF APPEALS OF OHIO**  
**SECOND APPELLATE DISTRICT**  
**CASE SUMMARIES**  
**May 19, 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. Lyndon B. Loftis*  
Case No: Darke C.A. No. 2022-CA-13; T.C. Case No. 22-CR-00240  
Panel: Tucker, Lewis, Huffman  
Author: Michael L. Tucker  
Summary: Appellant pleaded guilty to sexual battery. The trial court's religious comments at the sentencing hearing were not the basis for appellant's 36-month prison term. As such, the comments did not affect the fundamental fairness of the sentencing proceedings. The comments also did not violate the First Amendment's Establishment Clause. Judgment affirmed.

Case Name: *State of Ohio v. Derrick L. Johnson*  
Case No: Montgomery C.A. No. 29659; T.C. Case No. 1991 CR 01751/1  
Panel: Tucker, Lewis, Huffman  
Author: Mary K. Huffman  
Summary: The trial court had subject matter jurisdiction to consider appellant's motion for leave to file a delayed motion for a new trial. The trial court did not abuse its discretion in finding that the issues raised in appellant's third motion for leave to file a delayed motion for a new trial were barred by res judicata. Judgment affirmed.

Case Name: *State of Ohio v. Michael D. Braun*  
Case No: Darke C.A. No. 2022-CA-12; T.C. Case No. 22-CR-00210  
Panel: Tucker, Lewis, Huffman  
Author: Mary K. Huffman  
Summary: During a valid traffic stop for fictitious plates, and after appellant exited his vehicle, the officer initiating the traffic stop had probable cause to search appellant's person after he voluntarily handed the officer a jar of marijuana retrieved from his overalls prior to a pat down search for weapons. The court did not err in overruling parts of appellant's motion to suppress. Judgment affirmed.

Case Name: *State of Ohio v. Charles L. Tomlinson*  
Case No: Greene C.A. No. 2022-CA-51; T.C. Case No. 21 CRB 01057  
Panel: Welbaum, Tucker, Epley  
Author: Christopher B. Epley  
Summary: Appellant's conviction for domestic violence was not against the manifest weight of the evidence. Judgment affirmed.

Case Name: *State of Ohio v. Todd Garner*  
Case No: Miami C.A. No. 2022-CA-3; T.C. Case No. 21CR455  
Panel: Tucker, Epley, Huffman  
Author: Christopher B. Epley  
Summary: Trial counsel rendered ineffective assistance by failing to seek dismissal of the charges on speedy trial grounds where the speedy trial deadline had expired one day before trial. Judgment vacated.

Case Name: *Velocity Investments, LLC Assignee of Prosper Funding LLC Assignee of WebBank v. Larry Kunzler*  
Case No: Greene C.A. No. 2022-CA-56; T.C. Case No. 2022CV0246  
Panel: Tucker, Lewis, Huffman  
Author: Ronald C. Lewis  
Summary: The trial court did not err in granting summary judgment to a creditor's assignee where the debtor did not answer the complaint and did not respond to the motion for summary judgment. Judgment affirmed.

Case Name: *State of Ohio v. Johnny T. Duncan*  
Case No: Clark C.A. No. 2022-CA-82;  
T.C. Case Nos. 91CR0367; 91CR436; 92CR0218  
Panel: Tucker, Lewis, Huffman  
Author: Ronald C. Lewis  
Summary: The trial court did not err in denying appellant's motion for specific performance of a plea agreement where the trial court's written judgment entry mirrored the terms of the plea agreement. The trial court did not err in denying appellant's motion to withdraw his guilty pleas where appellant failed to file a direct appeal challenging his voidable sentence. Judgment affirmed.