

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
May 24, 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: *State of Ohio v. Eric Anderson*
Case No: Montgomery C.A. No. 29990; T.C. Case No. 23-CRB-1517
Panel: Epley, Tucker, Lewis
Author: Ronald C. Lewis
Summary: Appellant's conviction for aggravated menacing was supported by sufficient evidence and was not against the manifest weight of the evidence, where the complaining witness testified that appellant had followed him and threatened to kill him during what appellant admitted was an episode of road rage. Judgment affirmed.

Case Name: *Robin K. Edwards, Champaign County Treasurer v. Michael Galluzzo, et al.*
Case No: Champaign C.A. No. 2023-CA-21; T.C. Case No. 2022 CV 00033
Panel: Epley, Welbaum, Lewis
Author: Ronald C. Lewis
Summary: The trial court did not err in granting the county treasurer's motion for summary judgment in a delinquent tax foreclosure case against a landowner who had failed to pay his property taxes. Appellant, a non-lawyer, could not defend the action on behalf of other parties who did not answer or otherwise respond to the county treasurer's complaint. Judgment affirmed.

Case Name: *State of Ohio v. Anthony L. Brown*
Case No: Montgomery C.A. No. 29810; T.C. Case No. 2022 CR 03649
Panel: Epley, Welbaum, Lewis
Author: Ronald C. Lewis
Summary: Appellant failed to establish that the trial court committed plain error when it imposed restitution. Judgment affirmed.

Case Name: *FabMetals, Inc. v. Stratacache Inc.*
Case No: Montgomery C.A. No. 29666; T.C. Case No. 2018 CV 01339
Panel: Welbaum, Lewis, Huffman
Author: Ronald C. Lewis
Summary: The trial court awarded more than \$3 million in damages to appellee, a manufacturer and provider of digital menu boards, because of defective painting performed by appellant, a company that fabricates and paints metal parts. Portions of the trial court's damages award were against the manifest weight of the evidence. The trial court must conduct a new trial solely to determine the amount of damages that 1) were already incurred to replace defective menu boards, 2) will actually be incurred to replace defective menu boards during their ten-year design life, and 3) were already incurred to investigate the cause of the defective menu boards. Judgment affirmed in part, reversed in part, and remanded.

Case Name: *State of Ohio v. Amber N. Kelly*
Case No: Montgomery C.A. No. 29896; T.C. Case Nos. 2022CR1815; 2022CR1950; 2022CR2015;2022CR2176;2022CR2615
Panel: Epley, Tucker, Lewis
Author: Michael L. Tucker
Summary: Conceded error. The trial court did not make all the necessary findings required by R.C. 2929.14(C)(4) when it ordered the imposition of consecutive sentences, and therefore its sentences are contrary to law. Judgments reversed and remanded for resentencing.

Case Name: *State of Ohio v. Douglas Miller*
Case No: Darke C.A. No. 2023-CA-22; T.C. Case No. 22CR00254
Panel: Welbaum, Tucker, Huffman
Author: Mary K. Huffman
Summary: Appellant's conviction for operating a vehicle while intoxicated (OVI) was supported by legally sufficient evidence. However, the trial court erred in relying on an uncertified printout of a Law Enforcement Automatic Data System driving record as sufficient evidence to prove that appellant had at least five prior OVI convictions within a 20-year period. Judgment affirmed as modified; remanded for resentencing.

Case Name: *State of Ohio v. Bonnie McPeek*
Case No: Montgomery C.A. No. 29959; T.C. Case No. 2022 CR 02502
Panel: Epley, Tucker, Lewis
Author: Christopher B. Epley
Summary: The trial court erred in overruling appellant's motion to suppress. The police officers did not lawfully enter the property based on an arrest warrant, because they did not know if the wanted men were present. They also did not have an "implied license" to enter the curtilage, because they went where a "reasonably respectful citizen" would not be permitted to go. Finally, the seizure of contraband was not justified by the "plain view doctrine," because the contraband was discovered in a place where the officers did not have a right to be. Judgment reversed and remanded.