

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
June 23, 2023

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Case Name: *EBC Asset Investment Inc. v. James W. Brown, et al.*
Case No: Montgomery Appeal No. 29671; T.C. Case No. 2013 CV 03654
Panel: Welbaum, Tucker, Huffman
Author: Michael L. Tucker
Summary: The trial court did not err in finding, after an evidentiary hearing, that valid service of process was obtained at defendant-appellant's residence despite a non-existent address being affixed to an envelope containing the summons and complaint. The record supports the trial court's finding that the postal service corrected a transposed house number and delivered the summons and complaint to appellant's residence. Judgment affirmed.

Case Name: [S.P.] v. [M.G.]
Case No: Greene C.A. No. 2022-CA-57; T.C. Case No. 2017-DM-0098
Panel: Welbaum, Tucker, Huffman
Author: Michael L. Tucker
Summary: The trial court overruled appellant-father's a motion to reallocate parental rights or, in the alternative, to modifying his parenting time. The trial court did not abuse its discretion in denying Father's request for reallocation of parental rights because he failed to establish a change in circumstances. Based on its finding that there had been no change in circumstances, the trial court also denied Father's motion to modify parenting time. However, a change in circumstances is not required to modify the allocation of parenting time; the only test is whether reallocation of parenting time is in the child's best interest. Therefore, the trial court erred by using an incorrect standard when deciding this portion of appellant's motion. Judgment affirmed in part, reversed in part, and remanded.

Case Name: *State of Ohio v. Richard M. Bowman*
Case No: Darke C.A. No. 2023-CA-3; T.C. Case No. 20-CR-00084
Panel: Epley, Lewis, Huffman
Author: Mary K. Huffman
Summary: Appellant's petition for postconviction relief did not provide an

affidavit or any other competent, relevant, and material evidence in support of his claim. It also did not establish that he relied on evidence that did not exist or was not available to him for use at trial or on appeal. Appellant's broad, self-serving statements in his petition were insufficient, and his claims were barred by res judicata. Judgment affirmed.

Case Name: *In the Matter of K.K., K.K., K.K.*
Case No: Darke C.A. No. 2023-CA-2;
T.C. Case Nos. 21930015; 21930016; 21930017
Panel: Welbaum, Tucker, Huffman
Author: Mary K. Huffman
Summary: Although a dependency complaint filed by a children's services agency made allegations regarding Father's mental health and actions, the record lacked sufficient evidence to support the trial court's finding of dependency. Judgments reversed.

Case Name: *Estate of Rafael M. Cruz, et al. v. Daniel Peffley, et al.*
Case No: Montgomery App. No. 29435; T.C. Case No. 2018-CV-5142
Panel: Tucker, Welbaum, Lewis
Author: Ronald C. Lewis
Summary: The trial court did not err in finding that plaintiffs-appellees had filed their claims within the applicable statute of limitations and that they had standing to pursue their claims under Ohio's Uniform Fraudulent Transfer Act. The judgment was not against the manifest weight of the evidence on the defense of mitigation of damages. To the extent that the judgment found in favor of nine plaintiffs-appellees who did not testify, it was against the manifest weight of the evidence, because those parties did not provide evidence that they had invested in the Ponzi scheme in good faith. To the extent that the judgment found in favor of three plaintiffs-appellees who did testify against defendant-appellant Chad Leopard, it was not against the manifest weight of the evidence, where the only evidence supporting an initial cash investment was Leopard's own testimony and documentation created by an operator of a Ponzi scheme. Judgment affirmed in part, reversed in part, and remanded.

Case Name: *State of Ohio v. Lamon Boyd*
Case No: Montgomery C.A. No. 29447; T.C. Case No. 2021 CR 00017/1
Panel: Tucker, Lewis, Huffman
Author: Ronald C. Lewis
Summary: Appellant's statutory and constitutional speedy trial rights were not violated. Appellant filed numerous motions, including several requests for continuances, and the trial court ruled on his motions to suppress within a reasonable amount of time. The trial court did not err in overruling appellant's motion to suppress evidence where

exigent circumstances existed for police to lawfully enter appellant's residence to render aid to two missing juveniles. Judgment affirmed.

Case Name: *In re B.T. & D.T.*
Case No: Clark C.A. No. 2022-CA-86; T.C. Case Nos. 20210430; 20210431
Panel: Welbaum, Tucker, Huffman
Author: Jeffrey M. Welbaum
Summary: The trial court did not abuse its discretion in granting permanent custody of Mother's children to a children services agency. The record contained clear and convincing evidence establishing that: (1) the children could not be placed with either parent within a reasonable time or should not be placed with either parent; and (2) granting permanent custody to the agency was in the best interest of the children. Judgments affirmed.