

**THE COURT OF APPEALS OF
OHIO SECOND APPELLATE
DISTRICT CASE SUMMARIES
July 10, 2020**

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. Lastan'le Bernard Williams, Jr.*
Case No: Montgomery App. No. 28567; T.C. Case No. 2019-CR-1400
Panel: Froelich, Hall, Welbaum
Author: Jeffrey E. Froelich
Summary: Appellant shot his friend in the leg and, after the gun jammed, expressed that he would kill his friend the next time. After appellant pled no contest to felonious assault, the trial court imposed seven years in prison, to be served consecutively to an 18-month sentence imposed in another county; appellant had approximately four months remaining on the 18-month sentence. The trial court's imposition of a seven-year sentence for felonious assault and consecutive sentences was not contrary to law or clearly and convincingly unsupported by the record. Judgment affirmed.

Case Name: *State of Ohio v. Fred Tipton, III*
Case No: Montgomery App. No. 28602; T.C. Case No. 2019-CRB-2266
Panel: Froelich, Hall, Welbaum
Author: Michael T. Hall
Summary: Appellant's conviction for aggravated menacing was not against the manifest weight of the evidence. It may be inferred from the evidence that appellant knew or reasonably should have known that the victim's fiancé would convey appellant's threats to the victim. Judgment affirmed.

Case Name: *James L. Hillier, Individually and as Executor of Leslie R. Hillier's Estate v. Fifth Third Bank, et al.*
Case No: Miami App. No. 2019-CA-21; T.C. Case No. 87766-B
Panel: Froelich, Hall, Welbaum
Author: Jeffrey M. Welbaum
Summary: The trial court erred in granting summary judgment in favor of appellee, a bank, regarding the disposition of savings and checking accounts owned by a decedent. Under the unambiguous terms of the contract between the decedent and the bank, the decedent's

accounts were not payable on death (“POD”) accounts and should have been paid instead to the decedent’s estate for distribution under the will. The trial court also erred in granting summary judgment to the alleged POD beneficiary, who was not entitled to the amounts in the decedent’s accounts and was unjustly enriched by the payments. The trial court did not err in granting summary judgment in favor of the bank on bad faith, negligence, and estoppel claims, nor did the court err in granting summary judgment to the alleged POD beneficiary on a conversion claim. Judgment affirmed in part, reversed in part, and remanded to the trial court for further proceedings.

Case Name: *State of Ohio v. Tova I. Wallace-Lee*
Case No: Greene App. No. 2019-CA-19; T.C. Case No. 2018-CR-882
Panel: Tucker, Donovan, Hall
Author: Michael L. Tucker
Summary: Following a jury trial at which appellant was found guilty of murder and felonious assault, the trial court merged the offenses and convicted appellant of murder. The conviction was supported by sufficient evidence, and it was not against the manifest weight of the evidence. The jury instructions on self defense, to which there was no objection, were correct overall, and no plain error is demonstrated. The record does not establish ineffective assistance of trial counsel. The trial court erred by imposing post-release control on the felonious assault count, which merged with the murder, and by imposing post-release control on the murder conviction, since a defendant convicted of murder is subject to parole, not post-release control. Judgment affirmed in part, reversed in part, and remanded for an amended judgment entry with respect to post-release control.