

THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
July 28, 2023

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Case Name: *Charles W. Oberer v. Specialty Medicine Care LLC, et al.*
Case No: Montgomery C.A. No. 29674; T.C. Case No. 2020 CV 00869
Panel: Tucker, Epley, Huffman
Author: Michael L. Tucker
Summary: Appellant, a doctor, appeals from a judgment in favor of appellee, a medical group that had previously employed him, on a breach of contract claim. Appellee was not required to pursue a portion of its claim for damages under an action on account theory, and appellee established its damages with reasonable certainty. The employment contract required that any compensation appellant earned from another medical employer be paid to appellee, and the trial court did not err by awarding this amount to appellee. Judgment affirmed.

Case Name: *State of Ohio v. Kevin M. Schwieterman*
Case No: Greene C.A. No. 2023-CA-14; T.C. Case No. 22 TRD 03800
Panel: Tucker, Lewis, Huffman
Author: Michael L. Tucker
Summary: Appellant's conviction for violating R.C. 4549.02(A)(1)(a) by leaving the scene of an accident without providing identifying information to an injured party was supported by legally sufficient evidence and was not against the weight of the evidence. Judgment affirmed.

Case Name: *State of Ohio v. Donald R. Pepper*
Case No: Miami C.A. No. 2023-CA-6; T.C. Case No. 12 CR 154
Panel: Tucker, Lewis, Huffman
Author: Mary K. Huffman
Summary: Appellant filed a pro se motion to correct an "illegal" sentence and vacate his guilty plea to murder over 10 years after his conviction. The trial court corrected an improper notification that appellant was subject to mandatory post-release control by means of a nunc pro tunc judgment entry of conviction. The trial court partially complied with Crim.R. 11(C)(2)(a), notwithstanding the misstatement regarding post-release control, and the misstatement was not prejudicial. Appellant failed to demonstrate that a manifest injustice

required the trial court to vacate his plea, and the court did not abuse its discretion in denying appellant's request to vacate his plea. Further, appellant's motion was barred by res judicata. Judgment affirmed.

Case Name: *State of Ohio v. Davon L. Hunt*
Case No: Clark C.A. No. 2022-CA-84; T.C. Case No. 22-CR-0095B
Panel: Welbaum, Tucker, Epley
Author: Christopher B. Epley
Summary: Appellant's trial counsel was not ineffective for failing to file a motion to waive court costs. The decision could have been trial strategy, and appellant has failed to demonstrate that the trial court would have granted the motion had it been filed. Judgment affirmed.

Case Name: *State of Ohio v. Timothy Reed*
Case No: Clark C.A. No. 2022-CA-28; T.C. Case No. 22-CR-0042
Panel: Tucker, Epley, Lewis
Author: Ronald C. Lewis
Summary: Appellant's guilty plea waived all non-jurisdictional defects that may have occurred prior to entering his plea. The trial court erred in failing to specify at the time of sentencing the total number of days of jail-time credit and to properly include that factual determination in the judgment entry. Judgment affirmed in part, reversed in part, and remanded for resentencing.

Case Name: *In the Matter of the Adoption of A.J.W., a Minor*
Case No: Montgomery C.A. No. 29712; T.C. Case No. 2020 ADP 00147
Panel: Tucker, Lewis, Huffman
Author: Ronald C. Lewis
Summary: The probate court erred by overruling a motion to vacate a judgment of adoption where the biological father had not received notice of the adoption petition and hearing and the petitioners failed to show that they had exercised reasonable diligence in trying to locate the biological father before resorting to notice by publication. Judgment reversed and remanded.

Case Name: *State of Ohio v. Matthew E. Connelly*
Case No: Montgomery C.A. No. 29730; T.C. Case No. 2021 CR 01983
Panel: Tucker, Lewis, Huffman
Author: Ronald C. Lewis
Summary: Appellant failed to establish that the trial court had committed plain error by not merging two offenses at sentencing, where appellant failed to raise the issue in the trial court and did not point to any evidence demonstrating a reasonable probability that his two convictions were for allied offenses of similar import committed with the same conduct and without a separate animus. The fact that

appellant smoked marijuana on the same day as the plea hearing was insufficient, by itself, to demonstrate that his guilty pleas were not knowing, intelligent, and voluntary. Judgment affirmed.

Case Name: *State of Ohio v. Wayne L. Arrington III*
Case No: Montgomery C.A. No. 29676; T.C. Case Nos. 2021CRB00159W;
2021CRB00431W; 2022CRB00534W
Panel: Welbaum, Tucker, Epley
Author: Jeffrey M. Welbaum
Summary: The trial court abused its discretion in entering a forfeiture judgment against appellant, a bail bond surety agent. Under R.C. 2937.36(C), production of the body of the defendant on the date or dates specified in the notice of default and adjudication of forfeiture constitutes a showing of good cause why judgment should not be entered against each surety of the defendant. Here, before the show cause hearing occurred, the defendant appeared in court, and entry of a forfeiture judgment when the defendant had appeared prior to the noticed show cause date constituted an abuse of discretion. Judgment reversed and remanded with instructions to vacate the judgment and award against appellant.