

**THE COURT OF APPEALS OF OHIO**  
**SECOND APPELLATE DISTRICT**  
**CASE SUMMARIES**  
**September 18, 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. Timothy H. Housley*  
Case No: Miami App. No. 2020-CA-1; T.C. Case No. 2016-CR-348  
Panel: Donovan, Hall, Welbaum  
Author: Mary E. Donovan  
Summary: Following his conviction on several drug offenses, appellant filed a pro se motion in the trial court to stay fines and court costs. The court overruled the motion, finding that no fines had been imposed and that appellant had not shown good cause to stay the collection of court costs. The "bill" for court costs issued by the clerk of courts is not part of the record before us, and the court was not required to hold a hearing on appellant's ability to pay court costs. Judgment affirmed.

Case Name: *State of Ohio v. Chase A. Boles*  
Case No: Montgomery App. No. 28704; T.C. Case No. 2019-TRC-815  
Panel: Tucker, Donovan, Froelich  
Author: Jeffrey E. Froelich  
Summary: The State appeals from the trial court's decision granting appellee's motion to suppress evidence related to his operating a vehicle while under the influence of alcohol. The trial court erred both in finding the evidence insufficient to show that field sobriety tests administered to appellee substantially complied with National Highway Traffic Safety Administration (NHTSA) standards and in concluding that law enforcement officers lacked probable cause to arrest appellee. A deputy's uncontroverted testimony sufficed to establish substantial compliance with NHTSA standards, and testimony regarding appellee's vehicular collision, strong alcohol odor, glassy and bloodshot eyes, slurred speech, consumption of alcohol, and uneven gait demonstrated probable cause for arrest, even absent field sobriety test results. Judgment reversed and remanded.

Case Name: *Sarah Florenz v. Kaine Omalley*  
Case No: Montgomery App. No. 28780; T.C. Case No. 2020-DV-167  
Panel: Tucker, Froelich, Welbaum  
Author: Jeffrey E. Froelich  
Summary: Appellant cannot challenge on appeal the trial court's issuance of a domestic violence civil protection order when he failed to file objections, as required by Civ.R. 65.1. Moreover, because he failed to file a transcript of the full hearing before the magistrate, we must presume that the evidence supported the magistrate's findings. Judgment affirmed.

Case Name: *State of Ohio v. Steven Joseph Hogel*  
Case No: Montgomery App. No. 28656; T.C. Case No. 2019-CR-2377  
Panel: Froelich, Hall, Welbaum  
Author: Michael T. Hall  
Summary: The trial court did not err by denying appellant's request for intervention in lieu of conviction (ILC). The trial court did not abuse its discretion in finding that ILC would demean the seriousness of appellant's offenses, and this finding rendered appellant statutorily ineligible for ILC, regardless of whether the court also found other reasons for denial of ILC that were no longer statutory reasons for exclusion. Judgment affirmed. (Froelich, J., dissenting.)

Case Name: *Tony Peh v. Thomas Kollin, et al.*  
Case No: Greene App. No. 2019-CA-71; T.C. Case No. 2018-CV-59  
Panel: Froelich, Hall, Welbaum  
Author: Michael T. Hall  
Summary: The trial court did not err by entering summary judgment for appellee attorneys and law firms. Appellant's legal malpractice claims were barred by the one-year statute of limitations in R.C. 2305.11(A); the claims accrued years before appellant commenced his malpractice action. Judgment affirmed.

Case Name: *In re: A.J.R. & A.J.S.*  
Case No: Montgomery App. No. 28706; T.C. Case Nos. 2015-7099 & 2015-7101  
Panel: Donovan, Froelich, Hall  
Author: Michael T. Hall  
Summary: The trial court did not abuse its discretion by granting permanent custody of appellant's two minor children to a children services agency. The court's determination that this resolution was in the children's best interest was supported by competent, credible evidence. Judgments affirmed.

Case Name: *City of Riverside, Ohio v. Robert C. Patino*  
Case No: Montgomery App. No. 28563; T.C. Case No. 2019-CVF-161E  
Panel: Tucker, Donovan, Welbaum  
Author: Jeffrey M. Welbaum  
Summary: The trial court did not err in granting summary judgment in favor of the City of Riverside on its complaint for unpaid municipal income taxes. Judgment affirmed.

Case Name: *BND Rentals, Inc. v. Dayton Power & Light Co.*  
Case No: Montgomery App. No. 28543; T.C. Case No. 2018-CV-4511  
Panel: Froelich, Hall, Welbaum  
Author: Jeffrey M. Welbaum  
Summary: The trial court erred in concluding that appellant had to have a contractual relationship with appellee, a property owner, in order to recover under the mechanic's lien statutes. As a party who furnished equipment used to complete a contract, appellant could potentially have qualified to file a lien under R.C. 1311.02. However, the court's error was immaterial because the removal of items from appellee's property did not fit within the definition of an "improvement" in R.C. 1311.01(J). Appellant therefore was not entitled to file a mechanic's lien because it did not furnish equipment used to remove an improvement. There are no genuine issues of material fact on this point. Judgment affirmed. (Hall, J., concurring.) (Froelich, J., dissenting.)