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Ohio Fifth District Court of Appeals Case Summaries

Case Caption	Case No(s)	Character of Proceeding	Judgment	Topics and Issues	Author	Date of Judgment Entry
In re J.C.	2025 CA 00065	Appeal from the Licking County Court of Common Pleas, Juvenile Division, Case No. F2024-0154	Affirmed	Permanent custody E.C. appealed the Licking County Court of Common Pleas, Juvenile Division's decision granting permanent custody of his daughter, J.C., to Licking County Jobs and Family Services, arguing the agency failed to make reasonable reunification efforts and that the court improperly relied on hearsay. The record showed J.C. was removed from her parents in 2022, briefly placed with her adult half-sister, and later taken into agency custody after escalating behavioral, hygiene, and mental-health issues. E.C., who had been incarcerated for much of J.C.'s life and had not had custody since 2022, had minimal involvement with the case and was found to have abandoned J.C. The agency presented evidence of J.C.'s traumatic background, her lack of a meaningful relationship with either parent, and her progress in foster care, where she was receiving treatment for PTSD and depression. The appellate court held that because abandonment was established, the agency was not required to make reunification efforts, and that testimony regarding J.C.'s disclosures was admitted only to explain agency actions, not for the truth of the allegations. Accordingly, the court overruled both assignments of error and affirmed the grant of permanent custody to the agency.	Baldwin	12/29/2025
Powless v. Powless	25CA00027	Appeal from the Court of Common Pleas of Licking County , Domestic Relations Division, Case No. 2003 DR 00619	Affirmed	A trial court that issues a divorce decree retains jurisdiction to clarify ambiguities in that final decree, and the trial court in this case did not abuse its discretion when it found that an ex-wife's rights under her divorce decree to a portion of her ex-husband's "retirement benefits" entitled her to receive disability payments that the ex-husband was receiving in lieu of retirement benefits. Also, a trial court's order clarifying an ambiguous term in an earlier divorce decree is a final and appealable order. In this domestic-relations appeal, Mark Powless challenged a trial court order approving Julie Strong's division-of-property order awarding her one-half of his disability benefits, which the court found he was receiving in lieu of retirement benefits under their 2003 divorce decree. Strong argued the appeal should be dismissed for lack of a final, appealable order, but the appellate court rejected that argument, holding the April 3, 2025 order was final because it clarified ambiguous language in the divorce decree. The decree awarded Strong one-half of Powless's "retirement benefits," a term the trial court found ambiguous and subject to clarification. After obtaining evidence from the State Teachers Retirement System and actuarial analysis showing Powless was receiving disability benefits in lieu of age-and-service retirement pay, and in the absence of contrary evidence from Powless, the trial court approved Strong's proposed order. The appellate court held that claim preclusion did not bar consideration of additional evidence to clarify the decree, that the trial court had authority to interpret and enforce the original property division, and that disability benefits received in lieu of retirement benefits constitute marital property to that extent. Accordingly, the appellate court denied the motion to dismiss and affirmed the trial court's judgment.	Gormley	12/29/2025
Pisani v. Schleg	2025CA00066	Appeal from the Stark County Court of Common Pleas, Probate Division, Case No. 250721	Appeal Dismissed	App.R. 16(A) - Failure to Comply with Appellate Rules - Dismissal of Case Defendant-appellant Roger Gates appeals judgments of the Stark County Common Pleas Court, Probate Division, that ordered him to cooperate with an appraisal of real property owned by the ward, Charlotte Schleg, and summarily overruled numerous motions he filed objecting to the sale of the property. The guardian of the ward's estate, Silas M. Pisani, sought authority to sell the Canton, Ohio property to provide for the ward's care in a nursing facility, and Gates—who resided at the property—opposed the sale through multiple filings. On May 22, 2025, the probate court ordered an appraisal and required Gates's cooperation, while also overruling his pending motions, prompting this appeal. The appellate court, however, found Gates's pro se brief failed to comply with the mandatory requirements of App.R. 16(A), lacked any cogent legal argument, and demonstrated a substantial disregard for appellate rules. Although courts may afford some leeway to pro se litigants, the deficiencies in Gates's brief were deemed incurable, and the court declined to construct arguments on his behalf. Accordingly, the appeal was dismissed for want of prosecution pursuant to App.R. 18(C).	Hoffman	12/29/2025
State v. Sherman	25CA00036	Appeal from the Licking County Municipal Court, Case No. 25 CRB 00116	Affirmed	Defendant's conviction for violating a protection order was supported by the evidence, and the trial court's use of an outdated jury instruction for the term "recklessly" did not amount to plain error Defendant Misty Sherman appeals her misdemeanor conviction for violating a protection order, arguing insufficient evidence, manifest-weight error, and improper jury instructions on recklessness, but the appellate court affirms the judgment. The evidence showed that while a valid protection order required Sherman to stay at least 500 feet from her cousin, Aimee Watson, and to leave immediately upon encountering her, Sherman parked near Watson at a hospital, remained in the area after realizing Watson was present, and then followed Watson's vehicle out of the parking lot despite having alternative exits. Viewing the evidence in the light most favorable to the State, the court held a rational jury could find Sherman recklessly violated the order, and the verdict was not against the manifest weight of the evidence. Although the trial court used an outdated definition of "recklessly" in its jury instructions, Sherman failed to object and did not demonstrate plain error or prejudice, as the evidence supported her conviction under both the former and current statutory definitions. Accordingly, the conviction and sentence were affirmed.	Gormley	12/29/2025

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State v. Church	25CA000035	Appeal from the Guernsey County Court of Common Pleas, Case No. 23CR125	Dismissed	Recusal of Common Pleas Judge Defendant-Appellant William Church appeals the September 15, 2025 judgment of the Guernsey County Court of Common Pleas denying his pro se motion to recuse Judge Daniel Padden. However, the appellate court concludes it lacks jurisdiction because a trial court's denial of a motion to recuse is not an appealable order. Under R.C. 2701.03, the exclusive method for seeking recusal based on alleged bias or prejudice is the filing of an affidavit of disqualification with the Ohio Supreme Court. Although Church filed such an affidavit on September 22, 2025, the Supreme Court dismissed it after finding he failed to show that the underlying case was pending before Judge Padden. As a result, and consistent with established precedent, the appellate court likewise lacks jurisdiction and dismisses the appeal.	King	12/30/2025
State v. Renne	2025 CA 00055	Appeal from the Licking County Court of Common Pleas, Case No. 2025-CR00091	Affirmed	Sentencing Appellant Jeffrey Renne appeals his conviction and sentence imposed by the Licking County Court of Common Pleas following his guilty plea to one count of fifth-degree felony theft, arguing the trial court failed to impose the minimum sanctions necessary under R.C. 2929.11. The record shows Renne committed a series of retail thefts from multiple Sheetz locations and Home Depot in early 2025, stealing merchandise valued at over \$2,800 in total, admitting to long-term organized retail theft activity spanning decades. Although the parties jointly recommended a ten-month locally served prison sentence under the T-CAP program, the trial court imposed a twelve-month sentence after considering the purposes and principles of felony sentencing and the seriousness and recidivism factors under R.C. 2929.11 and R.C. 2929.12. On appeal, the court held it could not reweigh the sentencing factors and found the sentence was within the statutory range, supported by Renne's extensive criminal history and admitted likelihood of reoffending. Because the sentence was not clearly and convincingly contrary to law, the appellate court overruled Renne's assignment of error and affirmed the trial court's judgment.	Popham	12/30/2025
Israel v. Ohio Dept. of Job & Family Servs.	25CAE070054	Appeal from the Delaware County Court of Common Pleas, Case No. 25 CV D 04 0436	Affirmed	Unemployment Compensation Appellant Shannon N. Israel appeals the Delaware County Court of Common Pleas' July 11, 2025 judgment affirming the Unemployment Compensation Review Commission's decision that she was ineligible for unemployment benefits due to receipt of a lump-sum severance payment from JPMorgan Chase Bank. After her termination effective August 31, 2024, Israel received \$94,284.62 in severance pay, which was not allocated to any specific time period in her separation agreement. Applying the default allocation rule under R.C. 4141.31, ODJFS and the UCRC attributed the severance to 29 weeks of post-separation income, rendering Israel ineligible for benefits from September 1, 2024, through mid-March 2025 and resulting in a \$1,414 overpayment. Israel argued the severance should have been allocated to her final pay period, but the evidence, including her own testimony, showed no such allocation. Finding competent, credible evidence supporting the UCRC's determination and concluding the decision was not unlawful, unreasonable, or against the manifest weight of the evidence, the appellate court overruled Israel's assignment of error and affirmed the judgment.	Popham	12/30/2025
Keen v. Keen	CT2025-0061	Appeal from the Domestic Relations Division of the Court of Common Pleas of Muskingum County , Case No. DA2023-0478	Affirmed	The trial court properly denied a motion for relief from judgment under Civil Rule 60(B) in a divorce case. That kind of motion is not a substitute for a timely appeal from the underlying judgment. Defendant Nathen Keen appeals the trial court's denial of his Civil Rule 60(B) motion seeking relief from an October 2023 divorce decree that terminated his marriage, arguing the decree was erroneous and void due to alleged improper service and other defects. The appellate court affirms, concluding the trial court did not abuse its discretion in denying the motion without a hearing. Keen failed to demonstrate entitlement to relief under Civ.R. 60(B), as his motion was filed more than one year after the decree, rendering Civ.R. 60(B)(1) unavailable, and his claims under Civ.R. 60(B)(5) merely challenged the merits of the divorce decree and alleged ineffective assistance of counsel—arguments that should have been raised on direct appeal and do not constitute extraordinary circumstances justifying relief. The court further held that Keen was not entitled to an evidentiary hearing because his motion and affidavit failed to allege operative facts warranting relief, and his argument regarding improper service was waived because it was raised for the first time on appeal. Accordingly, the judgment denying relief from the divorce decree is affirmed.	Gormley	12/30/2025