



Stark County Law Library
110 Central Plaza South, Suite 401, Canton, OH 44702
www.starkcountyohio.gov/law-library



Ohio Fifth District Court of Appeals Case Summaries

Case Type	Case Caption	Case No(s)	Character of Proceeding	Judgment	Topics and Issues	Author	Date of Judgment Entry
Criminal	STATE VS. NICOLE PERENKOVICH	Case No. 2024 CA 00046	Criminal appeal from the Stark County Court of Common Pleas, Case No. 23-CR2195	Affirmed	Authentication, ineffective assistance of counsel The appellant was indicted in September 2023 for aggravated drug trafficking and possession, both first-degree felonies. A jury trial in November 2023 resulted in a mistrial due to jurors accessing unauthorized evidence. The retrial led to an eight-to-twelve-year prison sentence in March 2024. The appellant challenged the trial court's admission of allegedly unauthenticated evidence, including text messages and phone records, but the court ruled they were properly authenticated under Evidence Rule 901. She also argued ineffective assistance of counsel for failing to suppress new evidence and object to hearsay, but the court found the text messages admissible under exceptions to hearsay rules. The appellant claimed she was prevented from presenting a full defense, but the court determined she was allowed to introduce evidence of alternative suspects. The court found no miscarriage of justice or basis for overturning the conviction.	Hess,V.J.	2/13/2025
Criminal	STATE VS. ROBERT G. PALMER	Case No. 2024 AP 06 0024	Criminal appeal from the Tuscarawaras Court of Common Pleas, Case No. 2023 CR 10 0336	Reversed in part, Remanded	Jail time credit The appellate court partially reversed the Tuscarawas County Court of Common Pleas' decision regarding Robert G. Palmer's sentencing for Aggravated Robbery and Theft. Palmer argued he was wrongly denied jail time credit for his pre-sentencing confinement. The court agreed he was entitled to credit for 99 days, from his arraignment on November 15, 2023, until his sentencing in Stark County on February 22, 2024, since he was not yet serving a separate sentence. The case was remanded for a corrected sentencing entry to reflect the jail time credit, but the rest of the trial court's decision was affirmed.	Smith,V.J.	2/13/2025
Criminal	STATE OF OHIO VS. THOMAS S. GALLAGHER, JR.	Case No. 2024CA0015	Appeal from the Coshocton County Court of Common Pleas, Case No. 2023 CR 0096	Affirmed	Anders Defendant appealed the trial court's acceptance of his guilty plea on two counts of escape. The Court of Appeals found that the trial court fully complied with Crim.R. 11. The trial court thoroughly advised Gallagher of the rights he was waiving by pleading guilty, the maximum potential penalties, and the mandatory prison sentence associated with his plea. The Court of Appeals determined that the trial court properly imposed the remaining 1,360 days of Gallagher's post-release control for prior felonies, as it was within statutory limits. The sentences imposed followed applicable sentencing laws and fell within legal parameters. There is no evidence that the trial court considered improper factors beyond those outlined in R.C. 2929.11 and R.C. 2929.12.	Baldwin, P.J	2/19/2025
Criminal	STATE VS. THOMAS A. DELONG	Case No. CT2024-0048	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2023-0629	Affirmed	Maximum sentence; post-release control violation sentence Defendant-Appellant Thomas Delong appealed his sentence from the Muskingum County Court of Common Pleas. Delong argued that the trial court erred in imposing both the maximum sentence and post-release control as consecutive sentences. When imposing the maximum sentence, the record demonstrates that the trial court properly reviewed Delong's criminal history, the investigation report, and statements from the prosecutor, defense counsel, and Delong. The trial court considered the factors outlined in R.C. 2929.11 and 2929.12 and imposed post-release control. Furthermore, the trial court found that Delong was no longer amenable to post-release control.	King, J.	2/19/2025
Criminal	STATE VS. MITCHELL FLEMING	Case Nos. 2024 CA 0021 & 2024 CA 0022	Appeal from the Richland County Court of Common Pleas, Case Nos. 2021 CR 0944 N & 2021 CR 0998 N	Affirmed	Maximum, consecutive sentencing Defendant appealed the judgment that convicted him of two counts of aggravated possession of drugs (R.C. 2925.11(A), (C)(1)(a)) and one count of possession of cocaine (R.C. 2925.11(A)(C)(4)(a)), and sentencing him to an aggregate term of incarceration of thirty-six months. Based on R.C. 2929.11 and the factors listed in R.C. 2929.12, the trial court sentenced Fleming within the statutory range. The 12-month sentence was not contrary to the law, as seen in R.C. 2929.14 (C)(4). The trial court implemented consecutive sentences to protect the public from future crimes and to punish the Appellant. The Court of Appeals upheld the decision of the Richland County Court of Common Pleas.	Hoffman, J.	2/13/2025
Criminal	STATE VS. ULYSSES L. FEAGIN, II	Case No. 2024 CA 0044	Appeal from the Richland County Court of Common Pleas, Case No. 20CR0467N	Affirmed	Records request Defendant appealed the trial court's decision to deny his motion requesting leave to request public records. Feagin failed to identify a pending proceeding with respect to which the requested records would be material. Appellant then argued that the trial court abused its discretion by modifying findings of fact in a previous post-conviction entry. The trial court never issued a new judgment entry, but there was an inaccuracy in the judgment entry denying the appellant's petition for post-conviction relief. However, the trial court did not issue a nunc pro tunc entry modifying its judgment entry. As the trial court never issued a new judgment entry it did not abuse its discretion in denying Feagin's post-conviction relief.	Baldwin,P.J.	2/21/2025

Case Type	Case Caption	Case No(s)	Character of Proceeding	Judgment	Topics and Issues	Author	Date of Judgment Entry
Criminal	STATE VS. DAVID LEE WARNER, II	Case No. 2024CA00133	Appeal from the Stark County Court of Common Pleas, Case No. 2023 CR 0366	Affirmed	Plain error David Lee Warner, II, appeals the revocation of his judicial release following his conviction for Felonious Assault and Domestic Violence. He was sentenced to four to six years in prison with post-release control of 18 months to three years. Warner argues that the trial court breached his plea agreement by releasing him to SRCCC instead of Wilson House. The court rejects this claim, noting that the written plea agreement did not guarantee release to Wilson House, and Warner failed to raise the issue at trial, forfeiting all but plain error on appeal. The court finds no plain error and denies his appeal.	Baldwin,P.J.	2/21/2025
Criminal	STATE VS. CHRISTOPHER PARSONS	Case No. 24-COA-020	Appeal from the Ashland Court of Common Pleas, Case No. 21-CRI242	Affirmed	Sentencing Defendant-Appellant Christopher Parsons appealed the revocation of his community control and the imposition of a consecutive 36-month sentence, arguing it violated R.C. 2929.14 due to lack of support in the record. He contended he expected judicial release in the Richland County case, had a "moderate" recidivism risk score, and that alternative sentencing options were available. The trial court, however, was not bound by the Richland County case, and Parsons cited no authority to the contrary. Despite his moderate recidivism risk, he committed a new offense within 15 months of being placed on community control. Additionally, he failed a drug test, made no restitution progress, and was reported for harassing his ex-girlfriend. Citing these factors and Parsons' criminal history, the trial court found consecutive sentences necessary to protect the public.	Hess, J.	2/22/2025
Civil	DEPARTMENT OF DEVELOPMENT SERVICES FOR THE CITY OF NORTH CANTON, OHIO VS. CF HOMES LLC	Case No. 2024CA00108	Appeal from the Stark County Court of Common Pleas, Case No. 2023CV01178	Affirmed	Administrative warrant The appellate court upheld the trial court's decision, which denied CF Homes, LLC's motion for summary judgment and granted summary judgment to the City of North Canton's Department of Development Services. The court found probable cause for an administrative warrant to inspect CF Homes' rental property. The city's ordinance aims to ensure rental properties meet safety standards, protecting tenants who might be hesitant to report violations. The inspections follow a defined checklist and do not impose criminal penalties. The court ruled that the city met the legal requirements for obtaining the warrant, and CF Homes' objections lacked merit.	Baldwin,P.J.	2/14/2025
Probate	IN RE: ESTATE OF LOUIS W. SHURMAN, DECEASED, ESTATE OF IRENE R. SHURMAN, DECEASED, ESTATE OF GERALD L. SHURMAN, DECEASED, ESTATE OF DARLENE M. SHURMAN, DECEASED VS. ESTATE OF LOUIS W. SHURMAN BY WILLIAM SHARRARD, JR. EXECUTOR ET AL.	Case Nos. 2024CA00088, 2024CA00089, 2024CA00090, & 2024CA00091	Appeal from the Stark County Court of Common Pleas, Probate Division, Case Nos. 241722, 244969, 244970, & 244971	Affirmed	Probate court has authority to order repayment of attorney fees taken without court approval Attorney Gerald Golub, former counsel for the estates of Louis W. Shurman and related estates, was ordered in May 2024 to return \$43,560 in attorney fees he took without court approval. After withdrawing as counsel in June 2023, he filed a lawsuit seeking \$323,324.76 for legal fees, which was dismissed for lack of jurisdiction. A subsequent lawsuit in November 2023 was also dismissed on the same grounds. In April 2024, a probate court status conference revealed Golub had taken fees without authorization, leading to a citation hearing in May 2024. Golub argued lack of jurisdiction, due process violations, and procedural errors, but the court ruled he had acknowledged taking the fees without approval. The appellate court upheld the order, finding no error in the probate court's decision.	Hoffman, J.	2/19/2025