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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
State v. Lescody	25AP0003	Appeal from the Morgan County Court of Common Pleas, Case No. 23CR0048	Affirmed	Revocation of community control; Review of prison sentence after revocation of community control; R.C. 2953.08(G)(2); Abuse of discretion Defendant-Appellant Theodore Lescody challenged the Morgan County Court of Common Pleas' decision revoking his community control and imposing a 13-month prison sentence after multiple violations. Lescody had originally been sentenced to five years of community control for trespass in a habitation, with notice that violations could result in up to 18 months in prison. After initially failing to report to probation, disregarding travel restrictions, threatening family members, and later returning without permission to the residence of the same niece he had threatened, the trial court twice found him in violation of community control. Although the court gave him another opportunity through residential treatment, reports from the program showed continued behavioral problems, including dishonesty, manipulation, profanity, and rule violations. On appeal, Lescody argued that the trial court relied on improper considerations, including frustration with his lengthy allocation and minor treatment-program misconduct, and that the court abandoned earlier indications that successful treatment could favor continued community control. The appellate court rejected these arguments, holding that the trial court properly focused on Lescody's repeated violations, poor compliance, manipulative behavior, and lack of amenability to supervision. The court found no abuse of discretion in revoking community control and concluded that the 13-month sentence, which was below the 18-month maximum previously warned of and within the statutory range, was not contrary to law. Accordingly, the judgment was affirmed.	Montgomery	5/29/2026
State v. Norman	2025 AP 10 0034	Appeal from the Tuscarawas County Common Pleas Court, Case No. 2024 CR 04 0120	Affirmed	Sufficiency of the evidence; Manifest weight of the evidence; Aggravated possession of drugs; Illegal use or possession of drug paraphernalia Defendant-Appellant Jeffrey Norman challenged his convictions for aggravated possession of drugs and illegal use or possession of drug paraphernalia following a jury trial in the Tuscarawas County Court of Common Pleas. Police officers responding to a report of an unwanted person found Norman sitting alone in his white vehicle with a suspended driver's license. During the encounter, officers observed a glass meth pipe in plain view on the center console and, after searching the vehicle, recovered two meth pipes, a digital scale containing crystal-like residue, and a bag containing 41.86 grams of methamphetamine. Video evidence also showed Norman making incriminating statements during a phone call while seated in the police cruiser, and he admitted the amount seized could equal approximately 410 personal-use doses. Norman argued at trial and on appeal that the drugs and paraphernalia had been planted in his vehicle by another person and that the State failed to prove possession or that the items qualified as drug paraphernalia. The appellate court rejected these claims, finding that the evidence—including the location of the drugs and paraphernalia in Norman's vehicle, his sole occupancy and control of the car, the officers' testimony, the residue on the pipes and scale, and Norman's own statements—was sufficient to establish constructive possession and support both convictions. The court further held that the jury was entitled to disbelieve Norman's explanation and that the convictions were not against the manifest weight of the evidence. Accordingly, the Fifth District Court of Appeals affirmed the judgment and sentence of four to six years in prison.	Montgomery	5/29/2026
State v. Dukes	2025CA00074	Appeal from the Court of Common Pleas of Stark County , Case No. 2025CR0724	Affirmed	The State presented legally sufficient and factually persuasive evidence in a felonious-assault case in which the defendant was accused of causing serious physical harm, and the fact that jurors found a co-defendant guilty of the lesser crime of misdemeanor assault (for causing physical harm but not serious physical harm) did not invalidate the defendant's conviction or require a new trial. Carreyon Dukes challenged his felonious-assault conviction arising from a violent attack on another inmate, A.M., at the Indian River Juvenile Correctional Facility in March 2025. Surveillance video showed Dukes initiating an unprovoked assault by placing A.M. in a chokehold and throwing him to the ground, after which Dukes and co-defendants Jordan Worthey-Sturdivant and Demonte Williams repeatedly punched and kicked the victim. Later, after staff briefly left the room, the assault resumed and culminated with Sturdivant, assisted by Dukes, throwing A.M. headfirst onto the floor, leaving him motionless for several moments. Medical evidence showed A.M. suffered a head laceration, head, neck, and back pain, possible loss of consciousness, and a closed-head injury consistent with a concussion, although CT scans showed no structural damage. On appeal, Dukes argued that the evidence was insufficient and against the manifest weight of the evidence on the "serious physical harm" element, that the trial court improperly limited testimony regarding the victim's prior diagnosis of factitious disorder, and that inconsistent verdicts required a new trial because Williams was convicted only of misdemeanor assault while Dukes and Sturdivant were convicted of felonious assault. The appellate court rejected all arguments, holding that evidence of unconsciousness, concussion symptoms, pain, and medical treatment sufficiently established serious physical harm, that the jury reasonably weighed the conflicting evidence, and that the trial court properly excluded testimony from a doctor who lacked knowledge about the victim's mental-health diagnosis. The court further concluded that differing verdicts among co-defendants were permissible because the jury could separately evaluate each participant's conduct and culpability. Finding no abuse of discretion or legal error, the court affirmed Dukes's conviction and sentence.	Gormley	5/29/2026



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State v. Anderson	2025 CA 0004	Appeal from the Morrow County Court of Common Pleas, Case No. 2024-CR-0090	Affirmed	Evidence, Jury Instructions, Cumulative Error Thw Fifth District Court of Appeals affirmed the conviction and ten-year sentence of Randy Anderson for gross sexual imposition involving his step-granddaughter, O.P., who was under 13 years of age. The court reviewed evidence that Anderson, while caring for O.P., forced her to view his genitals, touched her inappropriately on multiple occasions, and showed her sexually explicit material. Anderson admitted to some of the allegations but claimed his actions were taken out of context and related to childcare. The trial court found O.P. incompetent to testify, but her statements were admitted through other witnesses. Anderson raised four assignments of error on appeal, including the child's competency, limitations on defense arguments, jury instructions, and cumulative error. The appellate court found some procedural errors but deemed them harmless due to overwhelming evidence, including Anderson's own admissions. Ultimately, the court concluded that Anderson received a fair trial and affirmed his conviction and sentence.	King	5/29/2026
In re C.W.	2026 CA 00002	Appeal from the Fairfield County Court of Common Pleas, Juvenile Division, Case No. 2024 AB 91	Affirmed	Permanent custody; R.C. 2151.414(D); Best interest of the child; R.C. 2151.414(B)(1) The Fifth District Court of Appeals affirmed the Fairfield County Juvenile Court's decision granting permanent custody of children CW and MEW to Fairfield County Children's Protective Services and terminating the mother's parental rights. Although the mother successfully completed many case-plan requirements—including mental health and substance abuse treatment, parenting education, and maintaining negative drug screens for over a year—the court found significant concerns remained regarding her ability to safely and consistently parent. Evidence showed ongoing issues with supervision, decision-making, housing instability, limited financial resources, and cognitive limitations affecting her parenting skills. At the permanent custody hearing, the mother tested positive for methamphetamine and marijuana after an anonymous tip, despite claiming the methamphetamine resulted from laced marijuana. The children had been living together with the same foster family since their removal, were thriving in that placement, and were strongly bonded to their foster caregivers. The guardian ad litem recommended permanent custody, concluding the children's need for a legally secure and stable placement could not be met by reunification with the mother. On appeal, the court applied plain-error review because the mother failed to object to the magistrate's decision and held that clear and convincing evidence supported the best-interest determination. The court also rejected the mother's ineffective-assistance-of-counsel claim, finding no reasonable probability that objections by counsel would have changed the outcome. Accordingly, the judgment granting permanent custody to the agency was affirmed.	Montgomery	6/2/2026
In re M.E.W.	2026 CA 00003	Appeal from the Fairfield County Court of Common Pleas, Juvenile Division, Case No. 2024 AB 112	Affirmed	Permanent custody; R.C. 2151.414(D); Best interest of the child; R.C. 2151.414(B)(1) The Fifth District Court of Appeals affirmed the Fairfield County Juvenile Court's decision granting permanent custody of siblings CW and MEW to Fairfield County Children's Protective Services and terminating their mother's parental rights. The children were removed due to concerns about the mother's methamphetamine and marijuana use, unsafe living conditions, homelessness, lack of food, and concerns regarding her cognitive ability to provide appropriate care. Although the mother completed many aspects of her case plan, including mental health and substance abuse treatment, parenting programs, and maintaining sobriety for more than a year, she tested positive for methamphetamine and marijuana at the permanent custody hearing after an anonymous tip alleged recent drug use. Evidence also showed continuing concerns about her parenting skills, judgment, supervision of the children, housing instability, and limited financial resources. The children had lived together with the same foster family since their removal, were thriving in that placement, and had developed strong bonds with their foster caregivers. The guardian ad litem recommended permanent custody, citing the mother's ongoing limitations and the children's need for a legally secure and stable home. Because the mother failed to object to the magistrate's decision, the appellate court reviewed the case for plain error and found none, concluding that clear and convincing evidence supported the determination that permanent custody was in the children's best interests. The court also rejected the mother's ineffective-assistance-of-counsel claim, finding that counsel's failure to object to the magistrate's decision did not prejudice the outcome. Accordingly, the judgment granting permanent custody to the agency was affirmed.	Montgomery	6/2/2026



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Angler v. Muskingum Cty.	CT2025-0089	Appeal from the Muskingum County Court of Common Pleas, Case No. CH2022-0281	Affirmed	Negligence; Tort of battery The Fifth District Court of Appeals affirmed the Muskingum County Court of Common Pleas' grant of summary judgment in favor of Deputies Dustin Prouty and Jeremy Archer, holding that Robert Angler's claims were barred by the one-year statute of limitations for assault and battery. Angler's lawsuit arose from his November 24, 2020 apprehension by law enforcement, during which Deputy Prouty deployed his K-9, Jango, after Angler fled from officers. Angler alleged that the deputies failed to timely command the dog to release him and sought to characterize his claims as custodial negligence subject to Ohio's two-year statute of limitations for bodily injury claims. The court rejected that argument, finding that the essence of the claims was the alleged use of excessive force through the continued dog bite, which constituted an intentional offensive touching and therefore sounded in assault and battery under Ohio law. Applying the principle that the nature of the claim—not the label attached to it—determines the applicable limitations period, the court concluded that Angler's claims accrued on the date of the incident and were untimely because he did not file suit until October 11, 2022, nearly two years later. The court also held that the trial court was not bound by its earlier denial of a motion for judgment on the pleadings and could reconsider the legal characterization of the claims after discovery. Accordingly, Angler's sole assignment of error was overruled, and the judgment dismissing his claims was affirmed.	Baldwin	6/2/2026
State v. Trischler	25 CAF 09 0081 25 CAA 09 0078	Appeal from the Delaware County Court of Common Pleas, Case No.25 CRI03 0126	Affirmed	Discretionary juvenile bindover The Fifth District Court of Appeals affirmed the juvenile court's decision to transfer 17-year-old Russell Allen Trischler's case to the Delaware County Court of Common Pleas for adult prosecution. Trischler was charged with multiple felony offenses arising from a June 2024 home invasion in which he and several accomplices entered his girlfriend's residence and assaulted and robbed three individuals. After Trischler stipulated to probable cause, the juvenile court ordered a psychological evaluation and conducted an amenability hearing. Although clinical psychologist Dr. Daniel Davis opined that Trischler could potentially be rehabilitated within the juvenile system, he also noted that the case was complex, that Trischler presented a moderate-to-high risk level, could be noncompliant with treatment, and would likely require treatment beyond his twenty-first birthday. The juvenile court carefully considered the statutory factors favoring and opposing transfer under R.C. 2152.12, finding that the victims suffered physical harm, Trischler was the principal actor in recruiting others for the crimes, he was mature enough for adult prosecution, and there was insufficient time to complete rehabilitation within the juvenile system before he aged out. Although factors such as his lack of prior juvenile adjudications and mental health diagnoses weighed against transfer, the court concluded that the factors favoring transfer outweighed those against it. After transfer, Trischler was indicted, later pleaded guilty to three counts of aggravated robbery, and received an aggregate prison sentence of 12 to 13½ years. On appeal, the court held that the juvenile court properly conducted the amenability hearing, thoroughly evaluated the statutory factors, and did not abuse its discretion in determining that Trischler was not amenable to rehabilitation within the juvenile system. Accordingly, the transfer order was affirmed.	Montgomery	6/2/2026
State v. Kirkbride	CT2025-0102	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2024-0754	Affirmed	Motion in limine; Prosecutor comments David Kirkbride appealed his convictions for felony obstructing official business and misdemeanor assault on a police dog arising from a November 2024 incident in which Muskingum County deputies attempted to serve an outstanding arrest warrant. After locating Kirkbride hiding inside a van, deputies repeatedly ordered him to surrender and warned that a police K-9, Panzer, would be deployed if he refused. When Kirkbride remained concealed, the dog was released, and Kirkbride responded by punching the dog and grabbing its gums. On appeal, Kirkbride argued that the trial court erred by refusing a self-defense instruction, denying his motion in limine regarding testimony that he was considered potentially dangerous, preventing him from informing the jury about the basis for the warrant, and failing to remedy alleged prosecutorial misconduct during closing arguments. The Fifth District Court of Appeals rejected each claim, finding there was no evidence that deputies used excessive force to justify self-defense, the trial court properly limited testimony about Kirkbride's background while allowing explanation of the K-9's deployment, the nature of the warrant was irrelevant to the charged offenses, and the prosecutor's challenged remark was promptly corrected and did not prejudice the trial. Concluding that none of the alleged errors warranted reversal, the court affirmed Kirkbride's convictions and sentence.	Baldwin	6/2/2026



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State v. Stotts	CT 2025-0073	Appeal from the Muskingum County Court of Common Pleas, Case No. CR2025-0021	Affirmed	Sufficiency of the evidence; Manifest weight of the evidence Ashton W. Stotts appealed her convictions for three counts of sexual battery arising from events on March 4–5, 2025, involving neighbor Alexus Allen. According to Allen, after drinking with Ashton and her husband, Wesley Stotts, she blacked out and later awoke to Wesley engaging in sexual acts with her while Ashton was present, pushed her back onto the bed when she tried to leave, and warned Wesley to stop because Allen would "tell on us." Allen testified she never consented to any sexual activity. Stotts, however, claimed Allen was coherent, voluntarily discussed having a threesome, and willingly participated in sexual activity with both spouses. Evidence at trial included witness testimony, surveillance video, medical examinations, and toxicology results showing the presence of alprazolam and marijuana metabolites in Allen's system. A jury found Stotts guilty of three counts of sexual battery based on complicity for aiding and abetting Wesley in sexual conduct with a person whose ability to appraise or control her conduct was substantially impaired. On appeal, Stotts argued the evidence was insufficient and that the verdicts were against the manifest weight of the evidence. The Fifth District Court of Appeals rejected both arguments, holding that the jury was entitled to determine witness credibility, that sufficient evidence supported each element of the offenses, and that the jury did not lose its way in resolving conflicts in the testimony. The court therefore affirmed the judgment of the Muskingum County Court of Common Pleas.	Montgomery	6/3/2026
State v. Sturdivant	2025-CA-00086	Appeal from the Stark County Court of Common Pleas, Case No. 2025CR0724C	Affirmed	Jurisdiction/inconsistent verdicts/Sufficiency and Weight of Evidence Jordan Worthey-Sturdivant appealed his Stark County conviction for felonious assault, arguing that his case should have been handled in juvenile court, that the evidence was insufficient and against the manifest weight of the evidence, and that the trial court should have granted him a new trial. The case arose from a violent assault at the Indian River Juvenile Correctional Facility, where surveillance video showed Worthey-Sturdivant and two co-defendants attacking another youth, including lifting him and slamming him headfirst onto a concrete floor covered by carpet. The victim later suffered head, neck, and back pain, vomiting, a head laceration, and symptoms consistent with a concussion. The Fifth District Court of Appeals held that because Worthey-Sturdivant was 19 years old at the time of the offense, jurisdiction properly belonged in adult court despite his custody status with the Ohio Department of Youth Services. The court further found that the surveillance footage, witness testimony, and medical evidence provided sufficient proof that the victim suffered serious physical harm, supporting the felonious assault conviction. The court also rejected claims that the verdict was against the manifest weight of the evidence or that differing verdicts among the co-defendants required a new trial, concluding that the jury reasonably distinguished the defendants' levels of participation. As a result, the appellate court affirmed Worthey-Sturdivant's conviction and sentence.	Popham	6/3/2026
State v. Lawless	25-COA-035 25-COA-036	Appeal from the Ashland County Court of Common Pleas, Case No. 15-CRI-178	Affirmed	Motion for re-sentencing/costs Richard J. Lawless appealed the Ashland County Court of Common Pleas' 2025 decisions denying his motions for resentencing, a final appealable order, and relief from court costs. Lawless had originally pleaded no contest in 2016 to 39 felony counts, including engaging in a pattern of corrupt activity, drug trafficking-related offenses, aggravated burglary, felonious assault, abduction, and weapons charges, in exchange for a jointly recommended 20-year prison sentence. Over the years, he filed numerous postconviction motions challenging his conviction, sentence, forfeiture orders, and court costs, many of which had already been rejected and affirmed on appeal. In this appeal, Lawless argued that the trial court never properly found him guilty, that the sentencing entry failed to comply with Criminal Rule 32(C), that he had not been sentenced on all counts, and that no final appealable order existed. The Fifth District Court of Appeals held that the 2016 sentencing entry satisfied all requirements for a final appealable order and that Lawless's claims were barred by the doctrine of res judicata because they either had been raised or could have been raised in prior appeals. The court also rejected his challenge to court costs, finding that he had previously litigated those issues and that the trial court acted within its discretion in declining to waive costs or establish a payment plan. Accordingly, the appellate court affirmed the trial court's judgments.	Popham	6/3/2026



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State v. Pegues	25 CAA 10 0088	Appeal from the Delaware County Court of Common Pleas, Case No. 24 CRI 10 0611	Reverse and Remand	Merger; Allied offenses of similar import; Sentencing; Driving under the influence; Aggravated vehicular assault; Vehicular assault Zamere Pegues appealed his sentence after being convicted of aggravated vehicular assault, operating a vehicle under the influence, and vehicular assault stemming from a September 2024 crash in Delaware County. Evidence showed Pegues was driving at a high rate of speed, ran a red light while impaired by alcohol and/or marijuana, and struck a vehicle stopped at an intersection, causing the victim to suffer a broken arm that required surgery and resulted in lasting pain, scarring, and missed work. At sentencing, the trial court merged the OVI conviction into the aggravated vehicular assault conviction but refused to merge the aggravated vehicular assault and vehicular assault convictions, imposing concurrent prison terms totaling 42 months. On appeal, Pegues argued that the two assault convictions were allied offenses that should have merged. The Fifth District Court of Appeals agreed, finding that both convictions arose from the same conduct, involved a single victim, and resulted in the same harm. Applying the Ohio Supreme Court's allied-offense analysis from <i>State v. Ruff</i> , the court concluded that the offenses were of similar import and could not be separately punished. Although the prison terms ran concurrently, the court held that Pegues was prejudiced by having multiple convictions for the same conduct. The appellate court therefore reversed the sentencing judgment and remanded the case for resentencing with the aggravated vehicular assault and vehicular assault convictions merged.	Montgomery	6/3/2026
State v. Workman	2026 CA 004	Appeal from the Fairfield County Court of Common Pleas, Case No. 2025 CR 0196	Affirmed	Suppression; Traffic stop Joshua Workman appealed his January 6, 2026 conviction and 36-month prison sentence for aggravated possession of drugs and possession of cocaine, arguing that the trial court improperly denied his motion to suppress evidence obtained during a traffic stop. The stop occurred after a Fairfield County sheriff's deputy observed a pickup truck traveling without a visible license plate and discovered that the temporary tag was obscured by dark window tint, making it unreadable until he was standing next to the vehicle. During the stop, the driver failed to provide registration or proof of insurance and handed the deputy identification belonging to another person, leading to the discovery of an active arrest warrant. When Workman exited the vehicle, the deputy saw drug paraphernalia in plain view, conducted a probable-cause search, and found cocaine and methamphetamine, which Workman claimed as his own. On appeal, Workman argued there was no violation of Ohio's temporary-tag display law and that the deputy unlawfully prolonged the stop. The Fifth District Court of Appeals rejected those arguments, finding the deputy's testimony and body-camera footage supported the trial court's conclusion that the temporary tag was not plainly visible as required by law. The court held that the stop, subsequent investigation, and vehicle search were lawful, and therefore affirmed Workman's convictions and sentence.	King	6/4/2026