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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 C.W.W.	26-CA-010	Appeal from the **Holmes County** Court of Common Pleas, Juvenile Division, Case No. 25N004	Affirmed in part; Reversed and Remanded in part	Legal Custody The Fifth District Court of Appeals affirmed in part and reversed in part the Holmes County Juvenile Court's award of legal custody of a minor child to non-relative custodians. The mother argued that the juvenile court improperly applied the permanent-custody standard, failed to allow additional time for reunification despite her substantial case-plan progress, and improperly delegated visitation decisions to the custodians. The appellate court found no reversible error in the court's consideration of whether the child could be returned to the mother within a reasonable time or its use of the clear-and-convincing-evidence standard, noting that the proper burden in legal-custody proceedings is a preponderance of the evidence and that the higher standard did not prejudice the mother. The court also upheld the denial of an additional extension of temporary custody because, despite the mother's successful completion of treatment, continued sobriety, and substantial case-plan compliance, uncertainty surrounding the child's recovery from sexual abuse by his half-brother made reunification within the remaining statutory period unlikely. However, the court reversed the visitation provision because it gave the custodians ultimate authority over contact without establishing a minimum visitation schedule, thereby failing to protect the mother's residual parental right to reasonable visitation. The court upheld restrictions on contact between the siblings pending approval by mental-health professionals and remanded solely for the juvenile court to establish definite minimum visitation requirements for the mother	Popham	10/30/2026
State v. McGreal	2025 CA 00144	Appeal from the **Stark County** Court of Common Pleas, Case No. 2025 CR 1440	Affirmed in part; Remanded in part	Manifest weight/ineffective assistance of counsel The Fifth District Court of Appeals affirmed Vincent McGreal's convictions and aggregate prison sentence of 10 to 15 years following a jury trial on seven drug-related offenses involving cocaine, fentanyl, heroin, and methamphetamine. McGreal argued that his convictions were against the manifest weight of the evidence because no drugs were found on his person, other individuals had access to the residence, and the State failed to establish that he controlled the bedroom where the drugs were discovered. The court rejected this argument, finding sufficient evidence of constructive possession based on McGreal's admissions that he stayed in the bedroom, his statements referring to belongings there as his own, his presence hiding in the bedroom closet, and the discovery of his medical paperwork, drug paraphernalia, digital scales, and controlled substances in the bedroom and closet. The court also rejected McGreal's ineffective-assistance claim based on counsel's failure to object to evidence and cross-examine the forensic scientist, concluding that he identified neither specific objections that should have been made nor any resulting prejudice, and that the scope of cross-examination was a matter of trial strategy. Although the court affirmed the convictions and sentence, it remanded for the limited purpose of correcting the sentencing entry nunc pro tunc because it incorrectly stated that McGreal had pleaded guilty rather than been found guilty by a jury.	Popham	10/30/2026
In re Guardianship of Bair	2026 AP 05 0009	Appeal from the **Tuscarawas County** Court of Common Pleas, Probate Division, Case No. 2026 GD 17157	Affirmed	R.C. 2111.02(A); Guardianship; Clear and convincing evidence; Statement of expert evaluation; Incompetent Christopher Matthew Bair appealed the Tuscarawas County Probate Court's determination that he was incompetent and its appointment of Ohio Network for Innovation (ONI) as guardian of his person only, arguing that the evidence was insufficient to establish incompetence or the necessity of guardianship as the least restrictive alternative. The guardianship application was supported by a psychiatric evaluation, family statements, and an investigator's report documenting Bair's nearly 30-year history of mental illness, severe schizoaffective disorder, hallucinations, repeated hospitalizations, inability to make sound decisions, and frequent noncompliance with prescribed medication. The evidence also showed that Bair continued to believe he owned property from which he had been barred by a no-contact order following threats against his brother. The Fifth District Court of Appeals concluded that competent, credible evidence supported the probate court's finding of incompetence and its determination that guardianship was necessary to protect Bair's welfare. The court also noted that Bair presented no independent evaluation or evidence of a less restrictive alternative to guardianship. Finding no abuse of discretion in appointing ONI as guardian of Bair's person, the court overruled his sole assignment of error and affirmed the judgment.	Montgomery	10/30/2026

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State v. Franklin	2025-CA-00162	Appeal from the **Stark County** Court of Common Pleas, Case No. 2025-CR-1138	Affirmed	Manifest weight and sufficiency; jury instructions; prosecutorial misconduct, invited error Shawn Anthony Franklin appealed his convictions and 36-month prison sentence for third-degree-felony domestic violence, arguing that the trial court improperly instructed the jury on cohabitation, failed to provide a limiting instruction concerning his prior domestic violence convictions, the prosecution committed misconduct during closing arguments, and his conviction was unsupported by sufficient evidence and against the manifest weight of the evidence. The charges arose from a May 2025 incident in which Franklin punched and struck M.M., tore off her shirt, and allegedly strangled her after she attempted to leave their vehicle; deputies found M.M. crying, partially undressed, and suffering visible injuries. Although M.M. later testified that she and Franklin had never lived together, her initial statements to deputies indicated they had shared a residence at his mother's home for several months and had recently stayed together at a motel. The Fifth District concluded that the evidence was sufficient to establish cohabitation under R.C. 2919.25, and that the jury was entitled to resolve the conflicting accounts and assess M.M.'s credibility. The court further held that Franklin invited any error in the cohabitation instruction by expressly approving it, that the failure to provide an additional limiting instruction regarding his prior convictions did not constitute plain error, and that the prosecutor's closing remarks were neither improper nor prejudicial. The court noted that the jury acquitted Franklin of strangulation, demonstrating its ability to follow the instructions and fairly evaluate the evidence. Accordingly, all five assignments of error were overruled, and the judgment was affirmed.	King	10/30/2026
State v. Holley	2025CA00169	Appeal from the **Stark County** Court of Common Pleas, Case No. 2025CR0647	Affirmed	Theft from Person in Protected Class Donald Holley appealed his Stark County conviction for theft from a person in a protected class, arguing that his conviction was not supported by sufficient evidence and was against the manifest weight of the evidence. The charges arose from Holley's repeated ATM withdrawals totaling approximately $23,000 from the bank account of an elderly, mentally incapacitated man who resided in a nursing facility and required a court-appointed guardian. Although Holley had previously served as the victim's power of attorney, he claimed that someone else had stolen the victim's debit card and later testified that he had an agreement allowing him to reimburse himself for transportation, cleaning, and furniture expenses. However, ATM surveillance footage identified Holley making the withdrawals, and he admitted during a police interview that he had made bad decisions accessing the victim's account, used some of the money to pay personal expenses and support his gambling addiction, and discarded the debit card. The Fifth District Court of Appeals concluded that the State presented sufficient evidence that Holley knowingly took the victim's money without consent or by deception and that the jury reasonably rejected his explanation. Finding that the jury did not lose its way or create a manifest miscarriage of justice, the court overruled both assignments of error and affirmed Holley's conviction and sentence of 36 months in prison and $23,000 in restitution.	Hoffman	11/2/2026
State ex rel. Bellman v. Granville	2026 CA 00025	Appeal from the **Licking County** Court of Common Pleas, Case No. 2023 CV 00914	Affirmed	Open Meetings Act; Summary Judgment The Fifth District Court of Appeals affirmed the Licking County Common Pleas Court's summary judgment ruling in a dispute involving the Village of Granville and alleged violations of Ohio's Open Meetings Act. The court agreed that the Comprehensive Plan Working Group was not a public body subject to R.C. 121.22 because there was no evidence its members were formally appointed by a governmental entity, that a public body controlled its activities, or that it functioned as a decision-making body. The court also rejected Bellman's argument that Village Council was required to take two separate votes before entering executive session. However, it upheld the finding that Council violated the Open Meetings Act by failing to include in its official meeting minutes the reasons for entering executive session on five occasions, even though those reasons appeared in the agendas and were read into the record. The court further upheld the trial court's injunction requiring future compliance with the Act and its award of $7,323.57 in attorney fees, finding that the violations were not merely harmless technical errors because the minutes were corrected only after Bellman filed suit. Accordingly, the court overruled all assignments of error raised by both parties and affirmed the trial court's judgments.	Hoffman	11/2/2026

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In re Guardianship of Shingler	26CA025	Appeal from the **Fairfield County** Court of Common Pleas, Probate Division, Case No. PG20250024	Affirmed	Appellant's motion from relief from judgment and to vacate void order regarding a no-contact order with the ward were properly denied. The Fifth District Court of Appeals affirmed the Fairfield County Probate Court's denial of Timothy Keil's motions to vacate a no-contact order and for relief from judgment prohibiting him from contacting Deborah Shingler, a 71-year-old woman under guardianship due to dementia and cognitive impairment. The no-contact order was originally issued at the request of Shingler's emergency guardian, who cited Keil's status as a registered sex offender, concerns about his involvement in the guardianship proceedings, and Shingler's inability to protect herself. Keil challenged the order through multiple motions but failed to file a timely appeal. The appellate court found that the original no-contact order was a final appealable order and that Keil could not use a Civ.R. 60(B) motion as a substitute for a direct appeal. The court also noted that Keil failed to provide a transcript of the relevant probate court hearing, requiring a presumption that the proceedings were valid. Additionally, the court concluded that the probate court had statutory authority under R.C. 2111.13 and 2111.50 to issue a no-contact order when necessary to protect a ward's best interests. Finding no abuse of discretion or due process violation, the court rejected all five assignments of error and affirmed the probate court's judgment.	King	11/2/2026
In re Estate of Kennedy	2026CA00075	Appeal from the **Stark County** Court of Common Pleas, Probate Division, Case No. 252113	Appeal Dismissed	App.R. 16(A) - Dismissal of Appeal for Substantial Non-Compliance with Appellate Rules The Fifth District Court of Appeals dismissed Greg Kennedy's appeal challenging the Stark County Probate Court's March 17, 2026 decision appointing his brother, Timothy Kennedy, as fiduciary of their mother Wanda Kennedy's estate. Following their mother's death, several family members, including Greg and Timothy, filed competing applications to administer the estate, while disputes arose over the prior guardian's final accounting and the appointment process. After conducting hearings and considering the competing applications, the probate court appointed Timothy as fiduciary. Greg appealed, but the appellate court found that his brief failed to comply with any of the requirements of App.R. 16, including providing assignments of error, identifying legal issues, presenting supporting arguments, and citing relevant authorities and portions of the record. The court emphasized that self-represented litigants must follow the same appellate rules as attorneys and that it was not the court's responsibility to construct arguments on an appellant's behalf. Because of the substantial deficiencies in Greg's brief, the court dismissed the appeal without addressing the merits of the probate court's appointment of Timothy.	Hoffman	11/3/2026
In re D.L.	2026CA00153	Appeal from the **Stark County** Court of Common Pleas, Juvenile Division, Case No. 2024JCV00780	Affirmed	Permanent Custody The Fifth District Court of Appeals affirmed the Stark County Juvenile Court's decision terminating Father's parental rights and granting permanent custody of his daughter, D.L., to the Stark County Department of Job and Family Services (SCJFS). The child was initially placed under protective supervision but was removed from the home after suffering a skull fracture and broken femur while in the care of her parents and a third party. Father challenged the permanent custody decision, arguing it was not supported by clear and convincing evidence and was against the manifest weight of the evidence. The appellate court rejected his arguments, finding that D.L. had been in SCJFS custody for at least 12 months of a consecutive 22-month period and that Father had abandoned the child while incarcerated in Pennsylvania following his arrest for transporting a large quantity of cocaine. The court also noted Father's failure to comply with his case plan, including drug testing, substance abuse treatment, obtaining housing and employment, and completing parenting classes. Additionally, the court found sufficient evidence that D.L. was bonded with her foster family, that her safety concerns had not been remedied, and that adoption was in her best interest. The court concluded that competent, credible evidence supported the permanent custody determination and overruled Father's sole assignment of error.	King	11/3/2026
State v. Skodny	26 CAA 04 0031	Appeal from the Court of Common Pleas of **Delaware County**, Case No. 25 CR I 07 0465	Affirmed	The trial judge properly accepted a criminal defendant's Alford plea where the prosecutor at the plea-change hearing explained sufficient facts to allow the judge to conclude, despite the defendant's protestation of innocence, that the Alford plea to a reduced charge was in the defendant's best interest. The State's case on the original more-serious charge appeared to be strong, and the defendant likely faced a lengthier and mandatory prison term had he gone to trial on that original charge. The Fifth District Court of Appeals affirmed the Delaware County Court of Common Pleas' acceptance of Daniel Skodny's Alford plea to an amended third-degree felony aggravated-possession-of-drugs charge. Skodny had originally faced a second-degree felony charge but agreed to plead to the reduced offense in exchange for a jointly recommended 24-month prison sentence. Although Skodny maintained his innocence and claimed he had no knowledge of the drugs found in his truck, he argued on appeal that the State failed to provide sufficient facts to support acceptance of his plea. The appellate court disagreed, finding that the trial court properly ensured the plea was knowing, intelligent, and voluntary and that the prosecutor provided sufficient evidence to establish a strong case, including the discovery of more than 30 grams of methamphetamine in Skodny's truck and a passenger's statement that they had planned to purchase drugs in Columbus. The court concluded that Skodny reasonably chose the reduced charge to avoid the significantly harsher sentence he faced if convicted at trial on the original charge. Accordingly, the court overruled his assignment of error and affirmed the judgment.	Gormley	11/3/2026

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State v. Vance	2025 CA 0084	Appeal from the **Richland County** Common Pleas Court, Case No. 2024 CR 0138 N	Affirmed	Kidnapping; Sufficiency of the evidence; Marsy's law; Ineffective assistance of counsel; Consecutive sentences and disproportionality; Separation of witnesses; R.C. 2905.01(B)(2); Knowingly; R.C. 2929.14(C)(4) The Fifth District Court of Appeals affirmed Jareth Vance's convictions on 40 counts, including aggravated attempted murder, aggravated burglary, felonious assault, kidnapping, aggravated arson, and related firearm specifications, arising from a February 2024 incident in which Vance, after threatening his former girlfriend, set fire to her home and later armed himself and forcibly entered her sister's residence, where several family members, including five children, were gathered. Vance held the occupants at gunpoint, threatened his former girlfriend, and fired multiple shots at responding officers as she attempted to escape, striking her and a detective before eventually surrendering after a four-hour standoff. On appeal, Vance argued that the trial court improperly allowed his former girlfriend's daughter to observe part of her mother's testimony despite a separation-of-witnesses order, that insufficient evidence supported nine kidnapping convictions, that trial counsel was ineffective for failing to object to his sentence, and that his lengthy consecutive prison terms constituted cruel and unusual punishment. The appellate court rejected all four arguments, finding that Marsy's Law protected the daughter's right to attend the proceedings, the evidence established that Vance knowingly restrained the victims' liberty by controlling them with a firearm, counsel's failure to object did not establish prejudice, and the trial court properly made the required consecutive-sentencing findings. The court concluded that Vance's sentence of 186½ years to 192 years, plus 42 years for firearm specifications, was supported by the record and affirmed the trial court's judgment.	Montgomery	11/5/2026
Helfrich v. Foor Family Invests., L.L.C.	2026 CA 00024	Appeal from the **Licking County** Court of Common Pleas, Case No. 18 CV 00245	Affirmed	New trial; Attorney fees; Expenses; Frivolous conduct The Fifth District Court of Appeals affirmed the Licking County Court of Common Pleas' judgment awarding Foor Family Investments, LLC, $121,047.71 in attorney fees and $5,150.45 in expenses after finding James Helfrich engaged in frivolous conduct in a property drainage dispute. The dispute arose after Helfrich alleged that water from Foor Family Investments' farm was improperly draining onto his property, although evidence indicated that Helfrich had blocked or damaged a longstanding drainage tile, causing the water to back up. Following a jury verdict in favor of Foor Family Investments, which awarded $30,000 in damages and found an easement by estoppel existed, the trial court determined that Helfrich's lawsuit and subsequent appeal constituted frivolous conduct. On appeal, Helfrich challenged the denial of his motion for a new trial based on fraud, the exclusion of witness testimony, the failure to consider supplemental evidence, the award of appellate attorney fees, the amount of fees and expenses, and the finding of frivolous conduct. The appellate court rejected all seven assignments of error, finding that his motion was untimely, his proposed evidence was irrelevant to the frivolous-conduct determination, the attorney fees and expenses were authorized under R.C. 2323.51, and competent, credible evidence supported the finding that Helfrich had misled the court about his role in blocking the drainage tile and pursued claims without a factual basis. The court therefore affirmed the award of attorney fees and expenses.	Montgomery	11/5/2026
Weaver v. Artex Oil Corp.	26CA000011	Appeal from the Court of Common Pleas of **Guernsey County**, Case No. 23CV33	Affirmed	The trial court properly found that an oil company gave up any claim to some underground minerals when a representative of that company signed an agreement surrendering the company's interest to the owners of the surface rights. Any legal opinions expressed by the landowners' lawyer during their negotiations could not justify a later fraud claim by the company because the landowners' lawyer owed no fiduciary duty to the oil company or its lawyer. The Fifth District Court of Appeals affirmed summary judgment in favor of Edwin and Martha Weaver and Weaver Family Farms LLC in a dispute over oil and gas rights beneath five parcels of property in Guernsey County. The court held that a 2017 settlement agreement between the Weavers and Artex Oil Company was valid and enforceable, even though the Weavers' signatures and delivery of a signed copy were disputed, because the parties' subsequent conduct demonstrated their acceptance of the agreement. The court further determined that the agreement was supported by consideration, that Artex Oil had authority as manager to bind its affiliate Artex Energy Group, and that the omission of other property owners from the agreement did not constitute a material mistake. Reading the settlement agreement together with the contemporaneous recorded release, the court concluded that Artex Oil and Artex Energy relinquished all claims to the mineral interests beneath the five parcels, including the Utica and Point Pleasant formations. The court also rejected the Artex defendants' fraud claims, finding that the alleged misrepresentation by the Weavers' attorney concerned a legal opinion rather than a factual representation and that no fiduciary relationship existed between the attorneys or their clients. Finally, the court rejected the Artex defendants' remaining counterclaims and third-party claims because they provided no independent basis for relief. The court also denied the Weavers' motion to dismiss the appeal as moot, concluding that recording the judgment did not constitute voluntary satisfaction by the Artex defendants.	Gormley	11/5/2026

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State v. Bell	2026CA00004	Appeal from the **Stark County** Court of Common Pleas, Case No. 2025CR1914	Affirmed	Manifest weight on conviction for importuning The Fifth District Court of Appeals affirmed Joel Aaron Bell's conviction for importuning in violation of R.C. 2907.07(A), rejecting his argument that the conviction was against the manifest weight of the evidence. Bell was charged with gross sexual imposition and importuning involving an eleven-year-old girl, M.D.; the jury found him guilty of importuning but could not reach a verdict on the gross sexual imposition charge, which was dismissed. At trial, M.D. testified that Bell touched her breast while tickling her, asked sexually explicit questions about her private areas, and suggested that if she allowed him to touch her, she could touch him. She also described text messages in which Bell offered to purchase clothing in exchange for modeling and favors, and he sent her inappropriate clothing. Bell admitted purchasing the clothing and tickling M.D. but denied the sexual comments and messages. The appellate court concluded that the jury was entitled to believe M.D.'s testimony and find that Bell solicited her to engage in sexual activity. Finding that the evidence did not weigh heavily against the conviction and that the jury had not lost its way or created a manifest miscarriage of justice, the court overruled Bell's sole assignment of error and affirmed his conviction and 36-month prison sentence.	King	11/5/2026
Sam's Excavating Unlimited, Inc. v. Smith	2026 CA 00014	Appeal from the **Fairfield County** Court of Common Pleas, Case No. 2023 CV 00125	Affirmed	Unjust Enrichment, Breach of Implied Warranty Ashley Smith appealed the Fairfield County Court of Common Pleas' judgment awarding Sam's Excavating, Unlimited, Inc. $45,806.42 on its unjust enrichment claim and rejecting her counterclaim for breach of the implied warranty of workmanlike performance arising from the construction of her home's foundation. Smith argued that the foundation was materially defective because the concrete allegedly contained calcium chloride, which could damage the reinforcing rebar, and that the damages awarded to Sam's did not reflect the reasonable value of its work. The Fifth District Court of Appeals affirmed, finding competent, credible evidence supported the trial court's determination that Sam's conferred a benefit on Smith, who used the foundation to build her home, and that the foundation remained structurally sound despite cosmetic defects. The court noted that the evidence concerning calcium chloride was disputed, the expert inspections identified no structural problems, and Smith failed to establish that Sam's work caused the alleged damage or to provide reliable evidence of necessary repair costs. The court also rejected Smith's argument that R.C. Chapter 4722 barred the award because she had not pleaded or litigated a claim under that statute. Finding neither judgment against the manifest weight of the evidence, the court overruled both assignments of error and affirmed.	Popham	11/5/2026