

**THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
November 13, 2020**

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Case Name: *State of Ohio v. Rakeem Ford*
Case No: Clark App. No. 2019-CA-85; T.C. Case No. 2019-CR-414A
Panel: Tucker, Donovan, Welbaum
Author: Jeffrey M. Welbaum
Summary: The trial court did not err by imposing consecutive sentences and it did not fail to consider the purposes and principles of felony sentencing in R.C. 2929.11 when sentencing appellant for one count of possession of heroin and one count of obstructing official business. The aggregate two-year sentence imposed by the trial court also did not amount to cruel and unusual punishment under the Eighth Amendment. Judgment affirmed.

Case Name: *Dianne Adkinson v. Alex Bell Dental—Daniel Cobb, DDS, LLC*
Case No: Montgomery App. No. 28708; T.C. Case No. 2018-CVF-3524
Panel: Tucker, Hall, Welbaum
Author: Michael L. Tucker
Summary: Appellant commenced an action against a limited liability company on claims for relief which relate to dental care or treatment provided by a dentist, and regardless of the fact that appellant did not join the dentist himself as a defendant, appellant's action constitutes a dental claim under R.C. 2305.113(E)(6). Although the action constitutes a dental claim, the trial court erred by dismissing appellant's complaint as a result of appellant's failure to file an affidavit of merit pursuant to Civ.R. 10(D)(2), because the basis of appellant's claimed damages is the alleged breach of an unconditional warranty, which laypersons can comprehend in the absence of expert testimony. Judgment reversed and remanded.

Case Name: *State of Ohio v. Devon J. Cohen*
Case No: Montgomery App. No. 28660; T.C. Case No. 2019-CRB-5764
Panel: Tucker, Donovan, Welbaum
Author: Michael L. Tucker
Summary: Appellant was convicted of misdemeanor assault in violation of R.C.

2903.13(A). Appellant has voluntarily completed the imposed sentence, and the conviction has not resulted in a collateral legal disability. Appellant's arguments are thus moot. Appeal dismissed.

Case Name: *State of Ohio v. Theron H. Ellis, Sr.*
Case No: Montgomery App. No. 28638; T.C. Case No. 2019-CRB-4809
Panel: Tucker, Donovan, Welbaum
Author: Mary E. Donovan
Summary: The trial court did not err when it overruled appellant's Crim.R. 29 motion for acquittal. The State adduced sufficient evidence to support appellant's conviction for violating a civil stalking protection order. Additionally, appellant's conviction was not against the manifest weight of the evidence. Judgment affirmed.

Case Name: *Jennifer L. Johnson v. David L. Johnson*
Case No: Greene App. No. 2020-CA-7; T.C. Case No. 2016-DR-171
Panel: Donovan, Froelich, Welbaum
Author: Mary E. Donovan
Summary: To rebut the presumption of proper service, a defendant must produce "evidentiary-quality information" that demonstrates he or she did not receive service. There is no evidence in the record that the second contempt summons issued to appellant was returned indicating a failure of delivery. Other than his bare assertion that he did not receive service of the second contempt summons until after a show cause hearing had been held, appellant failed to produce any evidentiary-quality information to rebut the presumption that he was properly served. Accordingly, the trial court did not err when it found that service of the second contempt summons was perfected upon appellant. The trial court's judgment with respect to appellee's motion to show cause did not address any issues that were pending in a separate appeal; it pertained to issues separate and distinct from the issues addressed and ruled upon in the other appeal involving the parties. Appellant failed to adduce any evidence that he was unfairly affected or otherwise prejudiced by Greene County D.R. Loc.R. 5.05. Therefore, the trial court did not abuse its discretion in implementing D.R. Loc.R. 5.05. Judgment affirmed. (Froelich, J., concurring.)

Case Name: *State of Ohio v. Kristten Packnett*
Case No: Montgomery App. No. 28673; T.C. Case No. 2019-CRB-2339
Panel: Donovan, Froelich, Welbaum
Author: Jeffrey E. Froelich
Summary: Appellant's conviction for assault was based on sufficient evidence and was not against the manifest weight of the evidence. The evidence supported a conclusion that appellant did not act in self-defense. Judgment affirmed.

Case Name: *State of Ohio v. Trendell Goodwin*
Case No: Montgomery App. No. 28681; T.C. Case No. 2018-CR-3878
Panel: Donovan, Froelich, Welbaum
Author: Jeffrey E. Froelich
Summary: The trial court did not abuse its discretion in denying appellant's presentence motion to withdraw his guilty pleas to murder with a firearm specification, felonious assault, and discharge of a firearm on or near prohibited premises. The trial court reasonably concluded that defense counsel did not mislead appellant about the amount of time he would need to serve before he was eligible for parole under the agreed 18-years-to-life sentence. Appellant also did not establish that he had a viable claim of self-defense. Judgment affirmed.

Case Name: *Rachelle Cooper v. Chase Foster*
Case No: Montgomery App. No. 28800; T.C. Case No. 2019-CV-1895
Panel: Tucker, Froelich, Hall
Author: Michael T. Hall
Summary: The trial court did not err by entering summary judgment for appellee on appellant's claim for negligence. A third-party's collision with appellee's car, which injured appellant, was not foreseeable as a matter of law. The collision was a new and independent act that intervened and superseded appellee's alleged negligence. Judgment affirmed.

Case Name: *Daniel L. Wells v. Anthony D. Murrell*
Case No: Montgomery App. No. 28726; T.C. Case No. 2018-CVF-903
Panel: Tucker, Froelich, Hall
Author: Michael T. Hall
Summary: The municipal court did not err by dismissing appellant's complaint for lack of monetary and subject-matter jurisdiction. The court could have reasonably found that the total monetary relief that appellant demanded exceeded its monetary jurisdiction, and a municipal court does not have subject-matter jurisdiction to hear a cause of action under 42 U.S.C. 1983, which was included in the complaint. The court also did not err by denying appellant leave to amend the complaint. Under the facts of this case, the denial was reasonable. Judgment affirmed.