

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

These case summaries are issued for the convenience of the public, the bench, and the bar. They are a brief statement of the court's holdings and are not to be considered headnotes or syllabi. Copies of opinions are available from the particular county's clerk of courts. The full text of each opinion will be available on the Ohio Supreme Court's website at <http://www.supremecourt.ohio.gov/rod/docs/?source=2>.

Case Name: *True Care Early Learning Center v. Ohio Department of Job and Family Services*
Case No: Montgomery App. Nos. 28532, 28533, 28534; T.C. Case Nos. 2018-CV-552, 2018-CV-597, 2018-CV-1525
Panel: Donovan, Hall, Welbaum
Author: Jeffrey M. Welbaum
Summary: In this administrative appeal, the trial court erred in applying R.C. 119.12 and R.C. 5104.04 and by adding requirements for revoking the license of a childcare center. The trial court also erred in vacating appellant's administrative order, which had revoked the childcare licenses of appellee's three childcare centers. Appellant's decision to revoke was supported by reliable, probative, and substantial evidence. Judgment reversed and remanded with instructions for the trial court to reinstate the revocation orders.

Case Name: *State of Ohio v. Michael A. Keeton*
Case No: Darke App. No. 2019-CA-8; T.C. Case No. 2018-CR-278
Panel: Tucker, Hall, Welbaum
Author: Michael L. Tucker
Summary: Following a jury trial, appellant and a co-defendant were convicted of aggravated robbery and misuse of a credit card. The trial court did not abuse its discretion by granting the State's motion to consolidate the appellant's case and the co-defendant's case. Also, the appellant was not prejudiced by any statements made by the prosecutor at trial. Judgment affirmed.

Case Name: *State of Ohio v. Jean Brunel Pierre Louis*
Case No: Montgomery App. No. 27909; T.C. Case No. 2016-CR-3501
Panel: Tucker, Hall, Welbaum
Author: Michael L. Tucker
Summary: Appellant was convicted of kidnapping and gross sexual imposition. Appellant was not denied a fair trial by the appointment of an unqualified interpreter. Trial counsel did not provide ineffective

assistance of counsel based upon his failure to raise a speedy trial objection. The kidnapping conviction was supported by sufficient evidence, and it was not against the manifest weight of the evidence. However, the trial court erred by not merging the kidnapping and gross sexual imposition convictions. Judgment affirmed in part, reversed in part, and remanded.

Case Name: *State of Ohio v. Leland G. Tope*
Case No: Greene App. No. 2019-CA-11; T.C. Case No. 2017-CR-0608
Panel: Tucker, Donovan, Froelich
Author: Michael L. Tucker
Summary: Appellant's right to a speedy trial under R.C. 2945.71 was not violated. Also, appellant's conviction for involuntary manslaughter was supported by sufficient evidence. Judgment affirmed.

Case Name: *State of Ohio v. Jessica Renee Daum*
Case No: Champaign App. No. 2019-CA-26; T.C. Case No. 2019-CR-29
Panel: Tucker, Donovan, Hall
Author: Mary E. Donovan
Summary: Appellant pled guilty to burglary, and the other counts in her indictment (possessing criminal tools and petty theft) were dismissed. Pursuant to *Anders v. California*, appellate counsel has asserted that he has found no arguably meritorious issues for appellate review; our independent review has likewise revealed no arguably meritorious issues. Judgment affirmed.

Case Name: *State of Ohio v. Derrick Dujon Allen*
Case No: Montgomery App. No. 28450; T.C. Case No. 2018-CR-4423
Panel: Tucker, Donovan, Hall
Author: Mary E. Donovan
Summary: The trial court did not err when it overruled appellant's motion to suppress. The Dayton Police Department's tow policy constitutes a reasonable standardized procedure, and there was no evidence in the record which established that the inventory search was a pretext for an investigative search. Appellant did not receive ineffective assistance when his trial counsel allowed him to plead no contest to one count of having a weapon while under disability. Judgment affirmed.

Case Name: *Brookville Enterprises, Inc. v. Phyllis Seibel, et al.*
Case No: Montgomery App. No. 28561; T.C. Case No. 2018-CV-4650
Panel: Froelich, Hall, Welbaum
Author: Jeffrey E. Froelich
Summary: The trial court erred in dismissing nursing home's complaint sua sponte, when the motion before the court was a motion for default judgment and no notice of potential dismissal based on inadequacies

in the appellant's claims was given. In dismissing the action, the trial court also improperly treated the motion as one for summary judgment and made incorrect factual findings and legal conclusions based on taking judicial notice of a probate case for an individual with the same name as the deceased appellee, but who was not the deceased appellee. Nursing home's appeal from trial court's subsequent denial of nursing home's Civ.R. 60(B) motion is moot. Judgment of dismissal reversed; case remanded for further proceedings.

Case Name:	<i>State of Ohio v. Jeffrey Lynn McClain</i>
Case No:	Champaign App. No. 2019-CA-12; T.C. Case No. 2018-CR-228
Panel:	Donovan, Hall, Welbaum
Author:	Michael T. Hall
Summary:	Appellant's convictions for gross sexual imposition and endangering children were supported by sufficient evidence and were not against the manifest weight of the evidence. Consecutive prison sentences of 60 months for gross sexual imposition and eight years for endangering children were not contrary to law, and we are unable to find by clear and convincing evidence that the record did not support the sentences. Judgment affirmed.