

**THE COURT OF APPEALS OF OHIO  
SECOND APPELLATE DISTRICT  
CASE SUMMARIES  
April 27, 2018**

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: *Robyn N. Matlock v. Robert J. Reck (R & S Mobile Home Park)*  
Case No.: Montgomery App. No. 27692; T.C. No. 15-CVF-214  
Panel: Donovan, Froelich, Tucker  
Author: Mary E. Donovan  
Summary: Appellant's breach of the valid oral contract between the parties for the purchase of a mobile home entitled Appellee to damages in the amount of \$3,000.00. Judgment affirmed.

Case Name: *State of Ohio v. Darren Taylor*  
Case No.: Montgomery App. No. 27539; T.C. No. 11-CR-4317  
Panel: Donovan, Froelich, Tucker  
Author: Jeffrey E. Froelich  
Summary: Trial court abused its discretion in denying defendant's post-conviction motion to vacate or suspend court costs. Court lacked statutory authority to vacate the restitution order, and defendant's challenge to the restitution order was barred by res judicata. The trial court's judgment affirmed as to restitution and reversed as to court costs, and case remanded for consideration of Taylor's indigency and his present and/or future ability to pay court costs. (Tucker, J., concurring.)

Case Name: *State of Ohio v. Bryson Williams*  
Case No.: Montgomery App. No. 27663; T.C. No.16-CR-4051  
Panel: Welbaum, Donovan, Hall  
Author: Michael T. Hall  
Summary: The appellant's convictions for murder and discharging a firearm on or near prohibited premises are not against the manifest weight of the evidence. Defense counsel did not provide ineffective assistance when, in the presence of the jury, after testimony of expertise and qualifications of a forensic pathologist and a firearms examiner, the prosecution "tendered" them as experts in their fields, defense counsel replied "no objection" and the trial court indicated "so noted" and "so designated," respectively. Both experts were

eminently qualified, both testified to issues that were not controversial or in dispute. On this record the trial court's responses to the tender of experts did not constitute plain error, and therefore counsel's failure to object did not constitute ineffective assistance of counsel. The trial court also did not commit plain error by failing to merge murder and discharging a firearm on or near prohibited premises as allied offenses of similar import. Judgment affirmed.

Case Name: *State of Ohio v. Dashawnda Wheaton*  
Case No: Montgomery App. No. 27615; T.C. No. 17-TRD-961  
Panel: Welbaum, Froelich, Hall  
Author: Jeffrey M. Welbaum  
Summary: Appellant's convictions for failing to maintain reasonable control of her vehicle and for leaving the scene of an accident were supported by sufficient evidence and were not against the manifest weight of the evidence. Affirmed.

Case Name: *State of Ohio v. Akeem Davis*  
Case No: Clark App. No. 2017-CA-45; T.C. No. 11-CR-261  
Panel: Donovan, Froelich, Tucker  
Author: Michael L. Tucker  
Summary: Defendant-appellant was convicted of rape in violation of R.C. 2907.02(A)(1)(b) and kidnapping in violation of R.C. 2905.01(A)(4). The trial court committed plain error by not ordering the merger of the rape and kidnapping counts. The merger conclusion renders Defendant-appellant's argument regarding the trial court's imposition of consecutive sentences moot. The trial court did not err by allowing the State to cross-examine Defendant-appellant about the notice of alibi he filed but did not pursue. The trial court erred by allowing the submission of victim impact evidence, but, given the overwhelming evidence of Defendant-appellant's guilt, the error was harmless. Finally, the admission of other acts evidence was elicited by defense counsel, and, thus, the trial court did not err regarding the admission of this testimony. Judgment affirmed, in part, reversed, in part, and remanded.