

**THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
March 2, 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>

OPINION RENDERED ON FEBRUARY 23, 2018:

Case Name: *State of Ohio v. Michael Hazel*
Case No: Clark App. No. 2017-CA-8; T.C. Case Nos. 2010-CR-808, 2010-CR-827, 2010-CR-828, and 2011-CR-49
Panel: Donovan, Hall, Tucker
Author: Michael L. Tucker
Summary: Defendant-appellant's counsel filed a brief under the authority of *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967) with Defendant-appellant filing a pro se brief. A thorough review of the record reveals no arguably meritorious appellate issues. Judgment affirmed.

OPINIONS RENDERED ON MARCH 2, 2018:

Case Name: *State of Ohio v. Patrick Shaffer*
Case No: Montgomery App. No. 27503; T.C. No. 16-CRB-6920
Panel: Froelich, Hall, Tucker
Author: Michael T. Hall
Summary: The trial court erred by sustaining Appellee's motion to dismiss. The 90-day time limit under R.C. 2945.71 in which to bring Appellee to trial had not yet expired when he filed his motion. Judgment reversed; remanded.

Case Name: *State of Ohio v. Prentiss R. Hare*
Case No: Clark App. No. 2017-CA-4; T.C. No. 15-CR-649
Panel: Welbaum, Froelich, Hall
Author: Michael T. Hall
Summary: The evidence is sufficient to show that Appellant committed aggravated robbery and felony murder. Although in dispute, the manifest weight of the evidence is not contrary to the jury's verdict finding that Appellant strangled the victim. The jury did not lose its way because it believed the state's witnesses over the defense's

witnesses. Appellant fails to show that the trial court plainly erred by admitting evidence of his other bad acts. Defense counsel properly waived Appellant's presence at a jury view and at a conference on the admission of exhibits. Counsel was not ineffective for not objecting to the admission of the other-acts evidence. Judgment affirmed.

Case Name: *Tammy D. Wright v. Russell E. Cramer, Jr.*
Case No: Montgomery App. No. 27586; T.C. No. 15-DR-1034
Panel: Welbaum, Donovan, Tucker
Author: Jeffrey M. Welbaum
Summary: The trial court erred in only one respect, and this was in connection with the court's judicial notice of S&P 500's return rates to calculate appreciation on the marital portion of Appellant's retirement accounts. In all other respects, the trial court did not abuse its discretion in classifying and dividing the parties' property. Affirmed in part and reversed in part, and remanded solely for the trial court to decide an appropriate method of calculating the appreciation of the marital portion of Appellant's retirement accounts.

Case Name: *State of Ohio v. Derek J. Ritchie*
Case No: Montgomery App. No. 27526; T.C. No. 17-CRB-298
Panel: Froelich, Hall, Tucker
Author: Michael L. Tucker
Summary: Defendant-appellant's disorderly conduct conviction as a fourth degree misdemeanor is supported by sufficient evidence and it is not against the manifest weight of the evidence. Judgment affirmed.

Case Name: *State of Ohio v. Edward Lee Sims*
Case No.: Clark App. Nos. 2016-CA-46, 2016-CA-47; T.C. Nos. 2016-CR-148, 2015-CR-631
Panel: Donovan, Hall, Tucker
Author: Mary E. Donovan
Summary: The trial court did not abuse its discretion in admitting evidence of Appellant's prior convictions, since a prior violation of the protection order increases the degree of the offense and is accordingly an element thereof. The prior convictions were also admissible to show Appellant's knowledge of the protection order and the absence of mistake or accident. Appellant was properly served with the protection order. His convictions are supported by sufficient evidence and not against the manifest weight of the evidence, since Appellant acted recklessly in residing and working within 500 yards of Petitioner, in violation of the protection order. Judgment affirmed.

Case Name: *Michele Coleman v. KBO, Inc., et al.*

Case No: Clark App. No. 2017-CA-82; T.C. No. 17-CV-145
Panel: Welbaum, Donovan, Froelich
Author: Jeffrey E. Froelich
Summary: In considering claim for eligibility for workers' compensation on a summary judgment motion, the trial court erred in finding that there was no genuine issue of material fact as to whether claimant's psychological condition in 2015 was caused by a workplace injury several years earlier. Claimant's expert stated by affidavit that, in his opinion, claimant's depression was related to the workplace injury five years earlier. The trial court also erred in concluding, as a matter of law, that reasonable minds could not find a causal connection to the psychological condition five years after the physical injury. The trial court erred in concluding that claimant's expert's opinion could not be considered, because it was "self serving" and "contradicted" claimant's admissions about her medical history. Rules related to contradictory evidence offered by a party in support of or in opposition to a motion for summary judgment apply to contradictory statements *by the same person*; no such evidence was offered here. Moreover, the expert's opinion and the claimant's admissions were not contradictory, and a non-party's statements are not "self serving" when offered to oppose a motion for summary judgment. Judgment reversed and remanded.