

**THE COURT OF APPEALS OF OHIO  
SECOND APPELLATE DISTRICT  
CASE SUMMARIES  
March 30, 2018**

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Case Name: *State of Ohio v. Brandon Ward*  
Case No.: Clark App. No. 2015-CA-115; T.C. No. 15CR145A  
Panel: Donovan, Froelich, Tucker  
Author: Jeffrey E. Froelich  
Summary: Defendant, who was 19 years old, pled guilty to two counts of burglary, in violation of R.C. 2911.12(A)(3), both third-degree felonies, and was sentenced to 30 months in prison on each count, to be served consecutively. The trial court did not err in imposing prison terms instead of community control and in ordering the sentences to be served consecutively; trial court properly considered the defendant's extensive juvenile record in determining that a prison term was appropriate and that defendant's "history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the offender." In addition, trial court's finding that the harm caused by defendant's two offenses was so great or unusual that no single prison term for any of the offenses adequately reflected the seriousness of the offender's conduct was not clearly and convincingly unsupported by the record. Based on the record, the trial court could have reasonably found that defendant had the ability to pay restitution. The parties agree that the trial court erred in ordering defendant to pay court-appointed counsel fees without notifying the defendant of that requirement at sentencing. Trial court's order requiring defendant to pay court-appointed counsel fees is vacated. In all other respects, the trial court's judgment is affirmed.

Case Name: *State of Ohio v. Jonathon M. Barron*  
Case No.: Greene App. No. 2017-CA-46; T.C. No. 16-CR-387  
Panel: Welbaum, Donovan, Hall  
Author: Michael T. Hall

Summary: The appellant's negotiated guilty plea waived his ability to challenge the trial court's ruling on his suppression motion. Judgment affirmed.

Case Name: *State of Ohio v. Jeffrey R. Rich*

Case No: Montgomery App. No. 27356; T.C. No. 14-CR-3225/1

Panel: Welbaum, Froelich, Hall

Author: Michael T. Hall

Summary: The appellant's convictions for receiving stolen property are based on legally sufficient evidence and are not against the manifest weight of the evidence. The State also presented legally sufficient evidence to support the appellant's convictions for engaging in a pattern of corrupt activity and money laundering. The trial court did not err in overruling the appellant's objection to purported "other acts" evidence on the basis that it was irrelevant and unduly prejudicial. Ohio's receiving-stolen-property statute, R.C. 2913.51(A), does not unlawfully criminalize civil negligence. The trial court did not err in denying the appellant's pre-trial suppression motion, which challenged a search-warrant affidavit. The trial court did not err in denying the appellant's Crim.R. 29 motion. The trial court adequately instructed the jury with regard to receiving stolen property being "corrupt activity" and with regard to the definition of "reasonable cause to believe." No cumulative error deprived the appellant of a fair trial. Judgment affirmed.

Case Name: *State of Ohio v. Lisa J. Rich*

Case No: Montgomery App. No. 27337; T.C. No. 14-CR-3225/2

Panel: Welbaum, Froelich, Hall

Author: Michael T. Hall

Summary: The appellant's convictions for receiving stolen property are based on legally sufficient evidence and are not against the manifest weight of the evidence. The State also presented legally sufficient evidence to support the appellant's convictions for engaging in a pattern of corrupt activity and money laundering. The trial court did not err in overruling the appellant's objection to purported "other acts" evidence on the basis that it was irrelevant and unduly prejudicial. Ohio's receiving-stolen-property statute, R.C. 2913.51(A), does not unlawfully criminalize civil negligence. The trial court did not err in denying the appellant's pre-trial suppression motion, which challenged a search-warrant affidavit. The trial court did not err in denying the appellant's Crim.R. 29 motion. The trial court adequately instructed the jury with regard to receiving stolen property being identified as "corrupt activity" and with regard to the definition of "reasonable cause to believe." No cumulative error deprived the appellant of a fair trial. Judgment affirmed.

Case Name: *State of Ohio v. Booker T. Washington*  
Case No.: Montgomery App. No. 27690; T.C. No. 17-CRB-4712  
Panel: Welbaum, Donovan, Hall  
Author: Mary E. Donovan  
Summary: Because appellant has completed his sentence for his misdemeanor conviction and because he has presented no evidence from which this Court could conclude he has suffered a collateral legal disability or loss of civil rights, we dismiss appellant's appeal as moot. We therefore need not address the merits of appellant's sole assignment of error.

Case Name: *State of Ohio v. Samuel R. Shumway*  
Case No.: Greene App. No. 2017-CA-51; T.C. No. 2009-CR-490  
Panel: Donovan, Froelich, Tucker  
Author: Mary E. Donovan  
Summary: The record establishes that the trial court complied with the requirements of Crim.R. 32.3 when it accepted appellant's admissions to violating his community control at the revocation hearing held on August 17, 2017. Trial court was not required to make inquiries pursuant to Crim.R. 11 prior to accepting appellant's admissions and revoking his community control. Appellant's argument that his sentence is contrary to law demonstrates that, at most, his sentence is voidable. Because appellant's sentence, assuming his argument had merit, would be voidable, he is barred by the doctrine of res judicata from challenging his sentence on that basis in the instant appeal. Judgment affirmed.

Case Name: *State of Ohio v. Erica Thomason*  
Case No.: Montgomery App. No. 27500; T.C. No. 16-CR-1621/1  
Panel: Welbaum, Donovan, Tucker  
Author: Mary E. Donovan  
Summary: Defense counsel was not ineffective for failing to ask the trial court to instruct the jury to disregard comments made by a State witness after he made two separate objections to specific portions of her testimony that were sustained. Trial counsel was not ineffective for failing to request a jury instruction for self-defense since the evidence adduced at trial did not support that affirmative defense. The State adduced sufficient evidence to support appellant's conviction for felonious assault with a deadly weapon, and the verdict was not against the manifest weight of the evidence. Judgment affirmed.

Case Name: *State of Ohio v. Shureka Weaver*  
Case No.: Montgomery App. No. 27582; T.C. No. 16-CR-2127/2  
Panel: Welbaum, Donovan, Tucker  
Author: Mary E. Donovan

Summary: The trial court did not abuse its discretion in overruling Appellant foster mother's motion to sever her trial, on one count of endangering children, from that of her co-defendant husband, who was also charged with endangering children as well as the murder of the child. Appellant failed to affirmatively demonstrate that a joint trial would compromise a specific trial right or prevent the jury from rendering a reliable judgment of guilty or not guilty. The evidence as to each charge was uncomplicated and could be reasonably separated as to each offense. Judgment affirmed.

Case Name: *State ex rel City of Englewood Director of Law v. Red Carpet Inn, et al.*

Case No: Montgomery App. No. 27590; T.C. Case No. 2016-CV-5658

Panel: Welbaum, Hall, Tucker

Author: Michael L. Tucker

Summary: Plaintiff-appellant filed a complaint against Defendants-appellees' business, a motel, asserting that it qualified as a nuisance under R.C. 3767.01(C)(2). The trial court entered judgment against Plaintiff-appellant prompting this appeal. Thereafter, Defendants-appellees voluntarily razed the motel. This action has made the legal controversy moot, and, finding no exceptions to the mootness doctrine, this appeal is dismissed. Appeal dismissed.

Case Name: *State of Ohio v. David Tipton*

Case No: Montgomery App. No. 27642; T.C. Case No. 2017-CR-472

Panel: Welbaum, Hall, Tucker

Author: Michael L. Tucker

Summary: Defendant-appellant's sole assignment of error attacks the trial court's imposition of a now served nine month prison term. As such, Defendant-appellant's appeal is moot and subject to dismissal. Appeal dismissed.

Case Name: *State of Ohio v. Rodney L. Powell*

Case No: Montgomery App. No. 27632; T.C. Case No. 2016-CR-2746

Panel: Welbaum, Donovan, Tucker

Author: Jeffrey M. Welbaum

Summary: The trial court did not err in overruling Appellant's motion to suppress. R.C.G.O. 71.31 is not vague, and the ordinance imposes an absolute duty on giving turn signals that is not conditioned on prevailing traffic conditions. The fact that Appellant failed to continuously maintain a turn signal prior to turning provided the police officer with a reasonable, articulable suspicion that Appellant had committed a traffic violation and justified the stop of Appellant's vehicle. Affirmed.

Case Name: *State of Ohio v. Laramie D. Lawson*  
Case No: Miami App. No. 2016-CA-20; T.C. Case No. 2016-CR-440  
Panel: Welbaum, Donovan, Hall  
Author: Jeffrey M. Welbaum  
Summary: The State concedes, and this court agrees, that Appellant did not knowingly, intelligently, and voluntarily enter his guilty plea due to the trial court improperly advising Appellant about post-release control at the plea hearing and in the written plea form. As a result, Appellant's additional claim alleging that his trial counsel provided ineffective assistance in failing to object to the erroneous post-release control advisement is no longer ripe for review and moot. Judgment reversed, plea vacated, and matter remanded.