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Ohio Fifth District Court of Appeals Case Summaries

Case Caption	Case No(s)	Character of Proceeding	Judgment	Topics and Issues	Author	Date of Judgment Entry
Boyer v. Poorman	26-CA-00001	Appeal from the Court of Common Pleas of Perry County , Case No. 25-CV-00101	Affirmed	The trial court properly granted a judgment on the pleadings in the defendants' favor where the plaintiffs' complaint - which alleged fraud, negligent misrepresentation, and other torts tied to the plaintiffs' purchase of real property at auction - acknowledged that the sales contract characterized the transaction as an "as is" sale. Any concerns on the part of the buyers about the property's boundaries could have been resolved had they examined available public records, and the buyers' complaint did not allege that the defendants made any false statements to them about the property. Darren and Marissa Boyer appealed the Perry County Court of Common Pleas' decision granting judgment on the pleadings in favor of realtor Gracee Poorman, S.T.H. Hill Real Estate Inc., its owner, and an online auction site after the Boyers purchased commercial property at an August 2024 auction and later discovered that an adjacent nine-foot-wide alley was not included in the sale. The Boyers alleged fraud by omission, negligent misrepresentation, and violations of fiduciary and statutory duties, arguing that information provided before the auction obscured the alley's separate ownership. The Fifth District Court of Appeals affirmed, concluding that the purchase agreement's "as-is where-is" clause barred the fraud-by-omission claim and that the Boyers could not establish justifiable reliance because the property boundaries were discoverable through public records and reasonable investigation. The court also determined that Poorman had made no affirmative false statements sufficient to support negligent misrepresentation and that the Boyers had failed to plead violations of R.C. 4735.67 in the trial court, thereby waiving that argument on appeal. The appellate court therefore affirmed the dismissal of all claims.	Gormley	10/9/2026
In re A.R.	2026 CA 0056 2026 CA 0057	Appeal from the Richland County Court of Common Pleas, Juvenile Division, Case Nos. 2024 DEP 00215 2024 DEP 00216	Affirmed	Permanent Custody The mother appealed the Richland County Court of Common Pleas, Juvenile Division's decision terminating her parental rights and granting permanent custody of her two children, A.R.(1) and A.R.(2), to Richland County Children Services (RCCS). The children were adjudicated dependent in December 2024 due to concerns involving the mother's substance use, inadequate medical care, and instability in the home. The agency developed a case plan requiring mental health and substance-abuse assessments, drug screening, parenting education, and progress toward stable housing and employment, but the mother failed to complete most services, continued using THC, lacked stable housing and income, and frequently missed or canceled visits with the children. Although she attributed her lack of progress to the father's alleged abuse and her postpartum depression, the court noted that she did not seek treatment or complete services after the father was incarcerated. The Fifth District Court of Appeals concluded that clear and convincing evidence supported the trial court's findings that the mother had failed to remedy the conditions leading to the children's removal, demonstrated a lack of commitment, and could not provide a suitable permanent home within a reasonable time. The court also found that the children, who had been in agency custody for approximately 16 months, were thriving in foster care, had developed strong bonds with their foster family, and were receiving necessary medical treatment. Finding that permanent custody was in the children's best interests and that the trial court's decision was supported by competent, credible evidence, the appellate court overruled the mother's assignment of error and affirmed the judgment.	Popham	10/9/2026
SAC Fin., L.L.C. v. Lohmiller	2026 CA 00033	Appeal from the Licking County Court of Common Pleas, Case No. 2025 CV 01258	Affirmed	Retail Installment Contract - Denial of Motion to Vacate Dismissal and set new Trial Date SAC Finance Inc. appealed the Licking County Court of Common Pleas' denial of its motion to vacate the dismissal of its complaint against Stephanie M. Lohiller and schedule a new trial. SAC filed its complaint in August 2025, and a bench trial was scheduled for March 16, 2026. After the trial court denied SAC's motion for a continuance, SAC failed to appear for trial, and the court dismissed the case for failure to prosecute. SAC subsequently moved to vacate the dismissal under Civ.R. 59(A)(7) and Civ.R. 60, arguing that the court had failed to comply with Civ.R. 41(B)(1). The Fifth District Court of Appeals noted that SAC filed its appeal more than 30 days after the original dismissal order, making a direct appeal untimely. Although the court indicated that SAC's argument might have been persuasive if raised in a timely direct appeal, it explained that a motion for relief from judgment under Civ.R. 60 cannot substitute for a direct appeal. Accordingly, the appellate court overruled SAC's sole assignment of error and affirmed the trial court's judgment.	Hoffman	10/9/2026



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State v. Mason	2026 AP 04 0008	Appeal from the New Philadelphia Municipal Court of Tuscarawas County , Case No. TRC 2502574A-C	Affirmed	Motion to Suppress - Officer had reasonable suspicion of Operating a Vehicle Impaired ("OVI") - Officer admitted failure to administer "lack of smooth pursuit" aspect of HGN did not negate entire result - Officer had probable cause to arrest Crystal L. Mason appealed her conviction and sentence in the New Philadelphia Municipal Court for operating a vehicle under the influence of alcohol or drugs (OVI), arguing that the court erred in denying her motion to suppress evidence obtained during a traffic stop. On August 1, 2025, an Ohio State Highway Patrol trooper stopped Mason for failing to signal a turn and subsequently detected a strong odor of alcohol, observed slightly red and glassy eyes and slurred speech, and learned that she had consumed three beers. Mason exhibited several clues of impairment during field sobriety testing, including six out of six clues on the horizontal gaze nystagmus (HGN) test, although the trooper acknowledged that he did not follow the required two-second timing for each pass when administering that test. The Fifth District Court of Appeals rejected Mason's three assignments of error, finding that the traffic violation and subsequent observations provided reasonable suspicion to extend the stop and request field sobriety tests. The court further concluded that the trooper's deviation from the HGN timing guidelines did not, by itself, establish a failure to substantially comply with National Highway Traffic Safety Administration standards, particularly because he observed six clues of impairment. Finally, considering the strong odor of alcohol, Mason's admission to drinking, her physical signs, and her field sobriety test performance, the court determined that probable cause supported her arrest. Accordingly, the appellate court affirmed the trial court's denial of the motion to suppress and upheld Mason's conviction and sentence.	Hoffman	10/9/2026
In re T.R.	2026 CA 0055	Appeal from the Richland County Court of Common Pleas, Juvenile Division, Case No. 2024 DEP 00217	Affirmed	Permanent Custody The Fifth District Court of Appeals affirmed the Richland County Juvenile Court's decision terminating Mother's parental rights and granting permanent custody of her son, T.R., III, to Richland County Children Services (RCCS). The child was placed in agency custody after concerns arose regarding Mother's substance use, failure to obtain necessary medical care for him, and failure to ensure her older son attended school. During the case, Mother failed to complete required mental health and substance-abuse assessments, did not finish parenting services, continued using THC, lacked stable housing and employment, and inconsistently attended visits. Although Mother attributed her lack of progress to Father's abuse and her postpartum depression, the court noted that she did not seek treatment or complete services after Father was incarcerated. The appellate court found clear and convincing evidence that Mother had failed to remedy the conditions leading to the child's removal and demonstrated a lack of commitment to providing a stable home. The child had been in agency custody for approximately 16 months, was bonded with his foster parents and siblings, and was receiving appropriate medical care and therapy in the foster home. Concluding that the trial court's findings regarding the statutory grounds for permanent custody and the child's best interests were supported by competent, credible evidence and were not against the manifest weight of the evidence, the appellate court overruled Mother's assignment of error and affirmed the judgment.	Popham	10/9/2026
Doe v. Columbus	23 CAE 04 0028	Appeal from the Delaware County Court of Common Pleas, Case No. 23 CV H 02 0089	Affirmed	Preliminary injunction hearing - trial court did not err in allowing plaintiffs to proceed pseudonymously - trial court appropriately applied federal caselaw interpreting second amendment to a claim brought under the Ohio Constitution - R.C. 9.68 is not unconstitutional The Fifth District Court of Appeals affirmed the Delaware County Court of Common Pleas' preliminary injunction preventing enforcement of Columbus ordinances restricting large-capacity firearm magazines and regulating negligent firearm storage. The court rejected the City's arguments that the plaintiffs could not proceed under pseudonyms, that the trial court lacked jurisdiction under the jurisdictional-priority rule because similar cases were pending in other counties, and that the plaintiffs lacked standing to challenge the ordinances. It found that the plaintiffs had demonstrated a sufficient personal stake in the controversy and that their privacy interests, particularly their reasonable fear of criminal prosecution, justified proceeding anonymously. The court also concluded that the trial court properly applied the Second Amendment framework established in <i>New York State Rifle & Pistol Association v. Bruen</i> and <i>United States v. Rahimi</i> when evaluating the plaintiffs' claim under Article I, Section 4 of the Ohio Constitution, rather than relying exclusively on the older reasonableness test in <i>Arnold v. Cleveland</i>. Additionally, the court determined that the plaintiffs were likely to succeed on their claims under R.C. 9.68, which limits municipal regulation of firearms, and that the trial court did not abuse its discretion in finding that the ordinances threatened irreparable harm to constitutional rights and that injunctive relief served the public interest. Accordingly, the appellate court overruled all five assignments of error and affirmed the preliminary injunction.	Hoffman	10/9/2026



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High Mill Holdings, L.L.C. v. Kinsey	2026CA00080	Appeal from the Stark County Court of Common Pleas, Case No. 2025CV01404	Affirmed	R.C. 2723.01 et seq; Strict compliance; Substantial compliance; Civ.R. 12(b)(6) de novo review; Conversion; Replevin; Conveyance fees; Exemption from conveyance fees; County auditor; Refund overpayment of taxes The Fifth District Court of Appeals affirmed the Stark County Court of Common Pleas' dismissal of claims brought by High Mill Holdings, LLC, and Stone Crossing SNF & ALF Holding, LLC, against Stark County Auditor Angela Kinsey, seeking to recover \$35,467.36 in conveyance fees allegedly paid improperly on real estate transfers. The appellants argued that the transactions qualified for exemptions from the fees and that their notation of "paid under protest" on the conveyance forms, following instructions from the auditor's office, satisfied the statutory requirements for recovery. The appellate court held that R.C. 2723.01 et seq. provides the exclusive remedy for recovering unlawfully collected taxes and that R.C. 2723.03 requires strict compliance with its requirements, including a written protest specifying the basis for the alleged illegality and contemporaneous notice of intent to sue. Because the appellants provided neither the required explanation of their protest nor notice of their intent to sue when they paid the fees, their claims could not proceed under conversion, replevin, or the statutory remedy. The court also rejected arguments that the trial court improperly considered matters outside the complaint, should have permitted an amended complaint, or should have liberally construed the pleadings to establish a viable statutory claim. Finally, the court declined to address the summary-judgment argument because the trial court had dismissed the case under Civ.R. 12(B)(6). All five assignments of error were overruled, and the dismissal with prejudice was affirmed.	Montgomery	10/13/2026
State v. Fall	2026 CA 00007	Appeal from the Fairfield County Court of Common Pleas, Case No. 2025CR00312	Affirmed	Aggravated burglary; Felonious assault; Aggravated robbery; Manifest weight and sufficiency of the evidence; Merger The Fifth District Court of Appeals affirmed Jeremiah Fall's convictions in the Fairfield County Court of Common Pleas for aggravated burglary, complicity to aggravated robbery, and complicity to felonious assault, including firearm specifications, resulting in an aggregate prison term of 11 to 12½ years. The charges arose from a May 2025 incident in which four armed, masked men entered the victim's apartment, pistol-whipped and beat him, threatened him with firearms, and stole clothing, shoes, and a gaming system. Fall argued that his aggravated burglary conviction was unsupported by sufficient evidence and against the manifest weight of the evidence, asserting that he did not enter the apartment or participate in the assault. The court rejected this argument, citing the victim's identification of Fall's voice, testimony that Fall participated in the attack, statements from Fall's sister and the victim's girlfriend, and a message Fall sent his sister telling her not to report his involvement. The court also rejected Fall's argument that the three convictions should merge for sentencing under R.C. 2941.25, finding that the offenses involved separate conduct because the aggravated burglary was complete upon the forcible entry and initial physical harm, the subsequent continued beating constituted felonious assault, and the later threats and theft constituted aggravated robbery. The court overruled both assignments of error and affirmed the trial court's judgment.	Montgomery	10/13/2026
Keen v. Keen	CT2026-0059	Appeal from the Muskingum County Court of Common Pleas, Domestic Relations Division, Case No. DA2023-0478	Affirmed	Civ.R. 60(B) on divorce decree challenging service/personal jurisdiction The Fifth District Court of Appeals affirmed the Muskingum County Domestic Relations Court's dismissal of Nathen Keen's second motion for relief from his divorce decree under Civ.R. 60(B). Keen argued that the court lacked personal jurisdiction because he had not been properly served with the divorce complaint, challenged the division of marital property and allocation of parental rights, and contended that the court should have held an evidentiary hearing and considered his motion to amend the decree to provide enforceable visitation. The appellate court found that service had been properly completed by certified mail at the correctional institution where Keen was incarcerated, as evidenced by the signed return receipt, and that he had waived any objection to personal jurisdiction by failing to raise it at the earliest opportunity despite participating in subsequent proceedings. The court also determined that Keen filed his motion more than two years after the divorce decree without adequately explaining the delay, and that his supporting affidavit failed to allege sufficient operative facts establishing a meritorious claim for relief. Consequently, the trial court was not required to conduct an evidentiary hearing, and its decision to deem Keen's visitation-related motion moot after dismissing his motion for relief from judgment was not an abuse of discretion. All six assignments of error were overruled, and the divorce court's judgment was affirmed.	King	10/13/2026



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State v. Walker	26CA000016	Appeal from the Guernsey County Court of Common Pleas, Case No. 25 CR 65	Affirmed	Sentence in Contravention of Law Robert D. Walker appealed his conviction and eleven-month jail sentence for fifth-degree-felony aggravated possession of drugs after pleading guilty to possessing .1 gram of methamphetamine discovered during a traffic stop. Walker initially sought Intervention in Lieu of Conviction, but after the trial court denied his application, he withdrew his original guilty plea and later pleaded guilty again before trial. On appeal, Walker argued that his sentence violated Ohio's sentencing statutes because the trial court improperly weighed the sentencing factors under R.C. 2929.11 and 2929.12. The Fifth District Court of Appeals rejected his argument, explaining that under State v. Jones, an appellate court cannot independently reweigh those factors when reviewing a sentence. The record showed that the trial court considered the applicable sentencing statutes and cited Walker's criminal history, prior unsuccessful sanctions, pattern of substance abuse, and lack of remorse. Because the eleven-month sentence fell within the statutory range of six to twelve months and was not based on impermissible considerations, the court found no basis to conclude the sentence was contrary to law, overruled Walker's assignment of error, and affirmed the judgment.	Hoffman	10/13/2026
Merrill v. Sharp	2026 CA 00046	Appeal from the Licking County Court of Common Pleas, Domestic Relations Division, Case No. 25 DR 01015	Affirmed	Civil protection order Kory A. Sharp appealed the Licking County Court of Common Pleas' judgment granting and partially modifying a domestic violence civil protection order obtained by Deborah A. Merrill, which remains in effect until October 31, 2030. The original order arose from an October 2025 incident in which Sharp allegedly attempted to take the parties' children while intoxicated, brandished a firearm, grabbed Merrill, and jumped onto her vehicle as she attempted to leave, causing her to fear imminent harm. Sharp challenged the trial court's references to a mental health episode and its finding that similar incidents had likely occurred before, arguing that these conclusions lacked evidentiary support and that defective service and inadequate notice violated his due process rights. The Fifth District Court of Appeals rejected all three assignments of error, emphasizing that Sharp failed to provide transcripts of either hearing, requiring the court to presume the trial court's findings were supported by the evidence and its proceedings were regular. The court also concluded that the findings concerning Sharp's threatening conduct independently supported the protection order and that the record showed he was personally served three days before the initial hearing. Finding no abuse of discretion or demonstrated due process violation, the court affirmed the judgment.	Baldwin	10/13/2026
Griffin v. Muskingum Cty. Job & Family Servs.	CT2026-0008	Appeal from the Muskingum County Court of Common Pleas, Domestic Relations Division, Case No. DG2025-0551	Affirmed	Service was proper and the trial court had jurisdiction over administrative child support order. The Fifth District Court of Appeals affirmed the Muskingum County Domestic Relations Court's judgment upholding an administrative child support order against Semaj A. Griffin. After genetic testing established Griffin's paternity, the Muskingum County Job and Family Services Agency issued a child support order on January 21, 2025, following notice of an administrative hearing sent by ordinary first-class mail. Griffin challenged the order, arguing that the trial court lacked jurisdiction, service was defective, the administrative order had not been adopted as a court judgment, the burden of proof was improperly shifted to him, and the court failed to make adequate findings of fact and conclusions of law. The appellate court rejected all five assignments of error, finding that Ohio Administrative Code provisions expressly permitted service of the hearing notice by ordinary mail, Griffin acknowledged receiving the notice, and he presented no sufficient evidence to rebut the presumption of proper service. The court further held that an administrative child support order takes effect 14 days after issuance and need not be adopted as a court judgment before enforcement. Finally, the trial court adequately addressed the contested jurisdictional and service issues, and Griffin had not requested formal findings of fact and conclusions of law. Accordingly, the child support order was valid and enforceable, and the trial court's judgment was affirmed.	King	10/14/2026
State v. Metzger	26 CAC 04 0034	Appeal from the Delaware Municipal Court of Delaware County , Case No. 25CRB00963	Reversed & Remanded	Intervention in lieu of conviction; R.C. 2951.041 The Fifth District Court of Appeals reversed the Delaware Municipal Court's denial of Robert Metzger's request for intervention in lieu of conviction (ILC) and remanded the case for further proceedings. Metzger was charged with telecommunications harassment after allegedly sending three text messages to a victim despite being warned by police to stop contacting the individual. After raising competency and insanity issues, Metzger filed a motion for ILC, alleging that substance use and mental health issues contributed to the offense. The trial court denied his request without a hearing, and Metzger subsequently pleaded no contest and was sentenced. On appeal, the court held that R.C. 2951.041(A)(1) requires a hearing when an offender alleges that drug or alcohol use was a factor leading to the charged offense, even though the ultimate decision to grant ILC remains within the trial court's discretion. Because Metzger made the requisite allegation, the trial court was required to hold a hearing and order an assessment to determine his eligibility and identify an appropriate intervention plan. Accordingly, the appellate court sustained Metzger's assignment of error, reversed the judgment, and remanded the case for further proceedings.	Montgomery	10/14/2026



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In re S.L.	2026 CA 0054	Appeal from the Richland County Court of Common Pleas, Juvenile Division, Case No. 2024DEP-00048	Affirmed	Permanent custody; Best interest of child; R.C. 2151.414(D); R.C. 2151.414(B)(1)(d); Clear and convincing evidence. The Fifth District Court of Appeals affirmed the Richland County Court of Common Pleas, Juvenile Division's judgment granting permanent custody of SL to Richland County Children Services, rejecting Father Damien Lake's three assignments of error. SL was born prematurely with multiple medical needs after prenatal exposure to several drugs and was placed in agency custody while Father was incarcerated. Although Father completed some case plan services, including parenting education, counseling, and attending medical appointments, he failed to maintain stable employment, continued to test positive for marijuana and cocaine, and did not disclose his ongoing drug use to his counselor. The appellate court found that the agency made reasonable efforts toward reunification and that clear and convincing evidence supported the trial court's determination under R.C. 2151.414(E)(1) that Father had failed to substantially remedy the conditions leading to SL's removal and that the child could not or should not be placed with him within a reasonable time. The court also upheld the finding that permanent custody was in SL's best interest, noting that the child had lived with the same foster family since four months of age, was closely bonded with the foster parents and their adopted son, was thriving in their care, and required a stable, permanent home to address his ongoing medical needs. Father's proposed relative placement with Mona Williams did not alter the best-interest analysis, and Father lacked standing to challenge the denial of her request for legal custody. Accordingly, the court overruled all three assignments of error and affirmed the permanent custody judgment.	Montgomery	10/14/2026
State v. Jones	26CA000001	Appeal from the Cambridge Municipal Court of Guernsey County , Case No. TRD2500100	Affirmed	Community control violation Keith E. Jones appealed the Cambridge Municipal Court's decision finding him in violation of community control and ordering him to serve the remainder of his original jail sentence for driving under suspension. Jones had pleaded guilty to the first-degree misdemeanor in August 2025 and received a 90-day jail sentence, with 75 days suspended, along with 12 months of community control, 40 hours of community service, and a prohibition against driving without a valid license and insurance. In November 2025, the state alleged that Jones failed to complete his community service and failed to report to his community control officer. Jones argued on appeal that the trial court violated his due process rights by failing to provide written notice of the alleged violations and that he did not knowingly, intelligently, and voluntarily waive his right to counsel. The Fifth District Court of Appeals rejected both arguments, finding that Jones received notice of the allegations through the arrest warrant and that the trial court adequately explained the alleged violations, his right to appointed counsel, and his rights to present evidence, confront witnesses, and request a hearing. Because Jones voluntarily admitted to the violations after being advised of his rights, and the trial court also heard testimony from his community control supervisor, the appellate court found no error in revoking community control and imposing the remaining sentence. The court therefore overruled both assignments of error and affirmed the trial court's judgment.	Baldwin	10/15/2026
State v. McKinney	26-COA-019 26-COA-020	Appeal from the Ashland County Common Pleas Court, Case No. 24-CRI-312 25-CRI-113	Affirmed	Consecutive sentences; Disproportionality; Review of sentence Broc McKinney appealed the Ashland County Court of Common Pleas' judgment imposing consecutive prison sentences for six drug-related offenses across two cases involving aggravated trafficking in methamphetamine near schools. McKinney was initially indicted in November 2024 and, while released on bail with an ankle monitor, was arrested again in June 2025 for similar drug-trafficking conduct. After pleading guilty to four offenses in the first case and two counts of second-degree felony aggravated trafficking in the second, he received consecutive sentences totaling more than 20 years in prison. On appeal, McKinney argued that his aggregate sentence was disproportionate to his offenses and that the trial court failed to make the required findings for consecutive sentences in the first case. The Fifth District Court of Appeals rejected both arguments, finding that the trial court properly considered the seriousness of the offenses, McKinney's extensive juvenile and adult criminal history, his high likelihood of recidivism, his prior unsuccessful prison sanctions, and his continued drug dealing while on bail. The court also determined that, because the cases were joined and sentenced during the same hearing, the trial court's consecutive-sentence findings concerning the offenses across both cases were sufficient, particularly because both sentencing entries included the required statutory findings. Accordingly, the appellate court overruled both assignments of error and affirmed the trial court's judgment.	Montgomery	10/16/2026



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State v. Dackiewicz	2025CA00149	Appeal from the Stark County Court of Common Pleas, Case No. 2025CR0465	Affirmed	Aggravated burglary; Aggravated robbery; Inconsistent verdict with firearm specification; Sufficiency of the evidence; Manifest weight of the evidence Steven Dackiewicz appealed his convictions in the Stark County Court of Common Pleas for two counts of aggravated robbery and two counts of aggravated burglary, each originally accompanied by firearm and repeat violent offender specifications, resulting in an aggregate prison sentence of 27 to 32½ years. The charges arose from a December 2024 incident in which Dackiewicz allegedly posed as an Amazon delivery driver to gain entry to the home of J.W. and V.W., then pulled a gun, demanded \$4,000, and took money and the victims' cell phones. Police identified Dackiewicz through DNA recovered from a beer bottle left at the scene, and recorded jail calls in which he admitted entering the residence, although he claimed he was collecting a debt. At trial, the jury found him guilty of all four offenses but acquitted him of the firearm specifications, while the court found him guilty of the repeat violent offender specifications. On appeal, Dackiewicz argued that his convictions were unsupported by sufficient evidence and against the manifest weight of the evidence because the jury's acquittal on the firearm specifications conflicted with the underlying convictions, the victims' testimony was allegedly inconsistent, and a question posed by the jury during deliberations indicated confusion. The Fifth District Court of Appeals rejected these arguments, explaining that acquittals on firearm specifications do not invalidate convictions on the underlying offenses, both victims testified that Dackiewicz used a gun, and he failed to identify specific inconsistencies in their testimony. The court also found no evidence that the jury's question demonstrated confusion sufficient to undermine its verdicts. Accordingly, the appellate court overruled both assignments of error and affirmed the trial court's judgment.	Montgomery	10/16/2026