

**THE COURT OF APPEALS OF OHIO
SECOND APPELLATE DISTRICT
CASE SUMMARIES
JULY 30, 2010**

These case summaries are issued for the convenience of the public, the bench and the bar. They are a brief statement of the holding of the court in the matter noted. They are not to be considered headnotes or syllabi. Readers may obtain copies of an opinion from the particular county's clerk of courts. The full text of each opinion is also available at the Ohio Supreme Court Website at www.sc.ohio.gov

Case Name: *State of Ohio v. Quarnail Thomas*
Case No.: Montgomery App. No. 23544
Panel: Donovan, Grady, Froelich
Author: Mary E. Donovan
Summary: The trial court properly denied Appellant's application for DNA testing without a hearing. Judgment affirmed.

Case Name: *State of Ohio v. Glenn S. Williams*
Case No.: Montgomery App. No. 25574
Panel: Donovan, Brogan, Fain
Author: Mary E. Donovan
Summary: Appellant's constitutional challenges to S.B. 10 lack merit. He was classified as a Tier II sexual offender by the sentencing judge. Judgment affirmed.

Case Name: *State of Ohio v. Shane L. Wilburn*
Case No.: Montgomery App. No. 23957
Panel: Donovan, Grady, Froelich
Author: Mary E. Donovan
Summary: Trial court properly considered the totality of the circumstances surrounding the stop of appellee's vehicle when it determined that the State failed to meet its burden to establish that appellee's consent to search his vehicle was voluntarily and freely given. Thus, the court did not err when it granted appellee's motion to suppress contraband discovered during an unlawful search. Judgment affirmed.

Case Name: *State of Ohio v. Jerry Lamar Tinsley*
Case No.: Montgomery App. No. 23542
Panel: Donovan, Grady, Froelich
Author: Jeffrey E. Froelich
Summary: Trial court properly overruled motion to suppress evidence. Search warrant based on controlled drug purchases by a reliable confidential informant and detective's surveillance of the house provided probable cause to search the house. The State presented evidence that defendant had been fully informed of his rights, and defendant did not present any evidence in support of his claim that his statements were involuntary. No contest plea waived any argument regarding sufficiency of the evidence. Judgment affirmed.

Case Name: *Mark Herres v. Millwood Homeowners Association, Inc.*
Case No. Montgomery App. No. 23552
Panel: Fain, Froelich, Donofrio
Author: Gene Donofrio
Summary: Trial court did not err in rendering summary judgment for defendant in action for breach of contract, quantum meruit, and on account. Letter accompanying one of two checks paid to, and cashed by, plaintiff, put plaintiff clearly on notice that his services were terminated and the accompanying payment was intended to be payment in full for services previously performed, thus constituting an accord and satisfaction. Fact that a second check, dated the same day, was sent by defendant to plaintiff, without a similar accompanying letter, did not create a genuine issue of material fact concerning the issue of accord and satisfaction. The purport of the letter was clear, and the existence of the second check did not contradict or undermine the statement in the letter that the payment included with it was intended to be payment in full. Furthermore, plaintiff never offered any evidence that he was owed additional monies. Affirmed.