

# Court of Appeals of Ohio

## *Eleventh Appellate District*

Diane V. Grendell  
Judge

Timothy P. Cannon  
Judge

Colleen Mary O'Toole  
Judge

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Ashtabula Geauga Lake Portage Trumbull

Cynthia Westcott Rice  
Judge

Thomas R. Wright  
Presiding/Administrative Judge

Shibani Sheth-Massacci  
Court Administrator/Magistrate/  
Administrative Counsel

**December 3, 2018**

**RELEASE**

### **ASHTABULA**

2017-A-0071

STATE OF OHIO, Plaintiff-Appellee v. CHARLES A. MICHALOS, Defendant-Appellant.

Judgment affirmed. Wright, P.J., concurs in judgment only. See Opinion and Judgment Entry. [CANNON] (WRIGHT) (RICE)

CRIMINAL LAW - aggravated disorderly conduct; Crim.R. 29(A) motion; sufficiency; manifest weight; city council meeting; recklessly; offensively course utterance, gesture, or display; inconvenience, annoyance, or alarm; reasonable warning or request to desist.

2018-A-0037

STATE OF OHIO, Plaintiff-Appellee v. JERICO RICHARD LAFERTY, Defendant-Appellant.

Judgment affirmed. Grendell, J., dissents. See Opinion and Judgment Entry. [WRIGHT] (RICE) (O'TOOLE)

CRIMINAL LAW - SENTENCING - R.C. 2953.08(G)(2); sentence in the prescribed range; Eighth Amendment challenge claiming sentencing judge has too much discretion must be raised to trial court or the issue is waived.

### **GEAUGA**

2018-G-0176

PORTFOLIO RECOVERY ASSOCIATES, LLC, Plaintiff-Appellee v. FRED S. GLICK, Defendant-Appellant.

Upon consideration and upon recommendation of the Administrative Counsel, the motion is granted, and this appeal is hereby dismissed. See Judgment Entry. [WRIGHT] (GRENDALL) (O'TOOLE)

**LAKE**

2018-L-009      IN RE: THE F.D. JOHNSON COMPANY.

Judgment reversed and entered for appellant. Grendell, J., concurs in judgment only. See Opinion and Judgment Entry. [WRIGHT] (GRENDSELL) (RICE)

DISCOVERY - Separate action for discovery; Civ.R. 34(D); identification of potential party through production of documents; use of civil rule improper when identity already known; R.C. 2317.48; discovery of facts as basis for potential claim; mootness; continuing enforceability of judgment.

**PORTAGE**

2016-P-0074      STATE OF OHIO, Plaintiff-Appellee v. DAVID M. SMITH, Defendant-Appellant.

Judgment affirmed. Grendell, J., dissents with a Dissenting Opinion. See Opinion and Judgment Entry. [WRIGHT] (GRENDSELL) (RICE)

CRIMINAL LAW - identification procedure impermissibly suggestive and unnecessary; Neil v. Biggers, 409 U.S. 188, factors to assess whether identification was reliable under the totality of the circumstances; suppression not required; attempted murder, aggravated robbery, aggravated burglary convictions supported by sufficient evidence and weight of the evidence.

**TRUMBULL**

2016-T-0099      STATE OF OHIO, Plaintiff-Appellee v. DANNY LEE HILL, Defendant-Appellant.

Judgment affirmed. Wright, P.J., concurs in judgment only. O'Toole, J., dissents with a Dissenting Opinion. See Opinion and Judgment Entry. [GRENDSELL] (WRIGHT) (O'TOOLE)

CRIMINAL - motion for new trial; newly discovered evidence; Crim.R. 33; motion to strike leave to file for new trial; motion to strike; Crim.R. 57(B); Civ.R. 12(F); unavoidable delay; res judicata; law of the case; circumstantial evidence; other acts evidence; Evid.R. 404(B); evidentiary hearing; disqualification of prosecutor's office; presumption of prejudice; breach of confidence.