

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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January 25, 2018

101261 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
STATE OF OHIO v CLARENCE MACK

Affirmed.

Frank D. Celebrezze, Jr., J., Kathleen Ann Keough, P.J., and Mary Eileen Kilbane, J., concur.

KEY WORDS: *Successive petition for postconviction relief; death penalty; res judicata; R.C. 2953.23; R.C. 2953.21; Crim.R. 33; ineffective assistance of counsel; motion for new trial; withholding evidence; materiality.*

The trial court did not abuse its discretion in denying appellant's untimely and successive petition for postconviction relief and motion to file a motion for new trial where several claims were barred by res judicata and other claims did not cast serious doubt on the convictions in this case.

104549 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v GERALDO RIVERA

Affirmed.

Frank D. Celebrezze, Jr., J., Eileen T. Gallagher, P.J., and Larry A. Jones, Sr., J., concur.

KEY WORDS: *Sentence; maximum sentence; rape; R.C. 2953.08; contrary to law; R.C. 2929.14; R.C. 2929.11; R.C. 2929.12.*

The trial court's sentence is within the permissible statutory range under R.C. 2929.14(A)(1), and the trial court considered the principles and purposes of felony sentencing set forth in R.C. 2929.11 and the seriousness and recidivism factors set forth in R.C. 2929.12. The trial court was not required to make any findings in order to impose a maximum sentence.

104665 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
JYOTI R. PATEL, ET AL. v KRUSHNA SS L.L.C., ET AL.

Affirmed.

Patricia Ann Blackmon, J., Eileen A. Gallagher, A.J., and Anita Laster Mays, J., concur.

KEY WORDS: *Fraud; unjust enrichment; comity; weight of the evidence; admission of evidence; R.C. 2329.90.*

Where plaintiffs asserted that defendants were required to transfer

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title of properties in England to them, but their claims involved fraud and unjust enrichment, trial court properly applied Ohio law. Trial court did not violate principles of comity or abuse its discretion in refusing to incorporate London High Court orders requiring that defendants hold London properties in trust for plaintiffs; judgment of the trial court was not against manifest weight of the evidence; plaintiffs' exhibits were not improperly excluded from evidence; trial court properly enforced London money judgments.

104960 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v CHADD M. COCHERN

Affirmed.

Mary Eileen Kilbane, P.J., Melody J. Stewart, J., and Patricia Ann Blackmon, J., concur.

KEY WORDS: *Sufficiency of the evidence; manifest weight of the evidence; right to speedy trial.*

Defendant-appellant's conviction affirmed. The jury's finding that defendant was guilty of rape, kidnapping, and disseminating matter harmful to juveniles related to the minor daughter of his former girlfriend was supported by sufficient evidence and was not against the manifest weight of the evidence. The jury's determination that the minor victim's sexual abuse allegations were credible was reasonable despite contradictory testimony related to the sequence of each act of abuse. There was no speedy trial violation under the Sixth Amendment, Ohio Constitution, Article I, Section 10, or R.C. 2945.71, et seq., because the majority of the periods of delay were chargeable to defendant-appellant and he twice waived his statutory speedy-trial time. The most lengthy period of delay was caused by his detainment in another jurisdiction resulting in his unavailability for trial for over a year. This time was chargeable to the defendant-appellant under a constitutional speedy-trial analysis and caused his statutory speedy trial clock to begin anew under State v. Bauer, 61 Ohio St.2d 83, 399 N.E.2d 555 (1980).

104979 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v GREGORY PETER STEFAN

Affirmed.

Anita Laster Mays, J., Kathleen Ann Keough, P.J., and Tim McCormack, J., concur.

KEY WORDS: *Ineffective assistance of counsel, R.C. 2929.11 and 2929.12, sentence contrary to law.*

Appellant was not denied effective assistance of counsel because

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the statute of limitations was tolled until his crimes were discovered. The venue was proper because the offenses appellant pleaded guilty to were part of a course of criminal conduct because the offenses involved victims of the same type, were committed in furtherance of the same purpose or objective, and involved the same or a similar modus operandi. Appellant's sentence was not contrary to law or unsupported by the record because it was not disproportionate to the crimes he committed, and the trial court made the necessary findings according to R.C. 2929.11 and 2929.12.

104984 CLEVELAND MUNI. C CRIMINAL MUNI. & CITY
CITY OF CLEVELAND v LA'SHA BATTLES

Affirmed.

Patricia Ann Blackmon, J., Kathleen Ann Keough, P.J., and Frank D. Celebrezze, Jr., J., concur.

KEY WORDS: Criminal damaging; sufficiency of the evidence; manifest weight of the evidence.

Conviction for criminal damaging is supported by sufficient evidence and not against the manifest weight of the evidence.

104997 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v TYRONE MOCK

Affirmed.

Frank D. Celebrezze, Jr., J., Eileen A. Gallagher, A.J., and Tim McCormack, J., concur.

KEY WORDS: Motion to suppress; manifest weight; sufficiency; Fourth Amendment; reasonable expectation of privacy; reasonable suspicion; exculpatory evidence; Brady violation; ineffective assistance of counsel.

The trial court properly denied appellant's suppression motions. Appellant's convictions are supported by sufficient evidence and are not against the manifest weight of the evidence.

105220 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v LECONTE CLIFTON

Affirmed in part, reversed in part, and remanded.

Mary J. Boyle, J., Melody J. Stewart, P.J., and Anita Laster Mays, J., concur.

KEY WORDS: *Voluntary plea; Crim.R. 11(C)(2); maximum penalty; prejudice; aggravated murder; postrelease control; unclassified felony; parole; sentence contrary to law; delayed appeal; court costs; indigency.*

The defendant was not prejudiced by the trial court incorrectly advising him at the plea hearing that he would be subject to five years of mandatory postrelease control if he was released from prison for aggravated murder, which was an unclassified felony not subject to postrelease control. The defendant was not prejudiced by the trial court's failure to advise him of the potential maximum fine for aggravated murder at the plea hearing because the trial court did not impose a fine. The defendant was not prejudiced by the trial court's failure to advise him of his appellate rights at the sentencing hearing because this court granted his motion for delayed appeal. The defendant's arguments relating to court costs were overruled because it was clear from the record that the trial court considered defendant's indigency and still imposed court costs. The postrelease control portion of defendant's sentence was vacated.

105270 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
LEMMIE L. SMOOT v DIRECTOR, OHIO DEPT. OF JOB AND FAMILY SERVICES

Reversed and remanded.

Mary Eileen Kilbane, J., Eileen A. Gallagher, A.J., and Larry A. Jones, Sr., J., concur.

KEY WORDS: *Discharge; just cause; unemployment benefits; Review Commission; appeal; manifest weight of the evidence, evidence supported in record.*

Judgment reversed. The Review Commission's decision is not supported by the evidence in the record. The claimant was an 11-year employee at the YMCA without any disciplinary complaints in her file. Over the course of a year, the employee was involved in several physical and verbal incidents with a YMCA member. The employee advised the YMCA about these incidents. The YMCA indicated that the member's behavior would not be tolerated and the employee was to advise management if any other issues occurred. The employee and the member did have another incident. The employee advised the YMCA of the same and the YMCA did nothing to address the member's conduct. Approximately five months later, the employee and the member had the sixth and final incident that resulted in the termination of the employee's employment. The employee gave the YMCA the opportunity to correct the problem with the member and the YMCA neglected to do so. The YMCA's failure to act placed the employee in a position where she was subjected to abusive conduct while waiting for her employer to respond. This isolated incident of physical conduct with the member, when viewed along with the employee's good record of job performance and the circumstances prior to the altercation, is insufficient evidence to support the Review Commission's determination that the employee was terminated for just cause.

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105295 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v DENICO D. CARSON

Affirmed.

Eileen T. Gallagher, J., Kathleen Ann Keough, P.J., and Larry A. Jones, Sr., J., concur.

KEY WORDS: *Manifest weight; sufficiency; circumstantial; possession; actual; constructive; ownership; gunshot residue; inference.*

Defendant's having weapons while under disability conviction is supported by sufficient evidence and is not against the manifest weight of the evidence.

105360 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v STEPHEN L. JOHNSON

Affirmed.

Eileen T. Gallagher, P.J., Frank D. Celebrezze, Jr., J., and Larry A. Jones, Sr., J., concur.

KEY WORDS: *Maximum and consecutive sentence for manslaughter and assault with firearm specification affirmed.*

Court's sentence was not contrary to law, the record supports the court's findings, and the court considered the proper felony sentencing statutes.

105449 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v RECO J. SIMMONS

Affirmed.

Mary Eileen Kilbane, J., Eileen A. Gallagher, A.J., and Kathleen Ann Keough, P.J., concur.

KEY WORDS: *Crim.R. 29; motion for acquittal; sufficiency of the evidence; carrying a concealed weapon; improper handling of a firearm in a motor vehicle.*

Defendant's convictions for carrying a concealed weapon and improper handling of a firearm in a motor vehicle were supported by sufficient evidence. Accordingly, the trial court did not err in denying defendant's Crim.R. 29 motion for acquittal. Cleveland Police officers recovered the firearm from underneath the driver's seat in the car he was operating. One officer observed defendant reaching down toward the floor near the center console, where the gun was found, as if to conceal something. The officer did not observe either of the two passengers make any movements toward

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this area, and none of the occupants of the vehicle made any statements regarding who possessed or owned the reportedly stolen firearm.

105475 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v JOHN SANTORELLA

Affirmed.

Patricia Ann Blackmon, J., Eileen T. Gallagher, P.J., and Melody J. Stewart, J., concur.

KEY WORDS: Robbery; theft; assault; coconspirators; manifest weight; sufficiency; restitution.

Defendant's convictions for robbery, theft and assault were supported by sufficient evidence and were not against the manifest weight of the evidence in light of coconspirators' testimony and defendant's statement to police; restitution award was supported by competent, credible evidence.

105491 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v LAMAR PACE

Affirmed.

Anita Laster Mays, J., Tim McCormack, P.J., and Sean C. Gallagher, J., concur.

KEY WORDS: Postrelease control, R.C. 2929.191, Crim.R. 11, Crim.R. 32, res judicata.

The trial court complied with R.C. 2929.191 to correctly journalized the mandatory sentence for postrelease control. There was no undue delay under Crim.R. 32 and appellant's constitutional rights were not violated. Compliance with Crim.R. 11 is presumed where appellant fails to provide a transcript of the proceedings.

105530 COMMON PLEAS COURT B CRIMINAL C.P. (DEATH PENALTY)
STATE OF OHIO v ANDRE JACKSON

Affirmed.

Eileen T. Gallgher, P.J., Melody J. Stewart, J., and Patricia Ann Blackmon, J., concur.

KEY WORDS: Mitigation phase; death sentence; Sixth Amendment; jury trial; error of law occurring during the proceedings; irregularities in the proceedings; federal or state right; petition for

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postconviction relief.

Trial court acted within its discretion when it overruled defendant's motion for leave to file motion for new mitigation trial where defendant failed to establish any irregularities in the proceedings or errors of law occurring during the trial as described in Hurst v. Florida, 577 U.S. ___, 136 S.Ct. 616, 193 L.Ed.2d 504 (2016).

105543 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v WILLIE SPEED

Affirmed.

Anita Laster Mays, J., Eileen A. Gallagher, A.J., and Sean C. Gallagher, J., concur.

KEY WORDS: Res judicata, motion for relief from judgment.

The trial court did not err when it denied the appellant's motion for relief from judgment because the appellant's claims are barred by res judicata.

105551 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v IVOREE TINSLEY

Affirmed.

Frank D. Celebrezze, Jr., J., Eileen A. Gallagher, A.J., and Tim McCormack, J., concur.

KEY WORDS: Ineffective assistance of counsel; prejudice; guilty plea; American Bar Association Standards; R.C. 2953.08; R.C. 2925.03(G)(1).

Appellant failed to demonstrate that defense counsel was ineffective during the sentencing phase of the criminal proceedings. The trial court's sentence on the drug trafficking and having a weapon while under disability counts is affirmed.

105554 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v ROY HILL

Affirmed.

Tim McCormack, J., Mary Eileen Kilbane, P.J., and Melody J. Stewart, J., concur.

KEY WORDS: Appointment of new counsel; good cause; abuse of

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discretion.

The trial court did not abuse its discretion in denying the defendant's request for the appointment of new counsel where the court considered the defendant's dissatisfaction with counsel at length and found no good cause to warrant the appointment of new counsel.

105571 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v JAVIER COLON

Affirmed.

Eileen T. Gallagher, P.J., Frank D. Celebrezze, Jr., J., and Larry A. Jones, Sr., J., concur.

KEY WORDS: Maximum and consecutive sentence for rape, kidnapping, and attempted murder with firearm specification affirmed.

Court's sentence was not contrary to law, the record supports the court's findings, and the court considered the proper felony sentencing statutes.

105579 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
NICHOLAS A. HERMAN, ET AL. v LUAN SEMA, ET AL.

Affirmed.

Anita Laster Mays, J., Eileen A. Gallagher, A.J., and Patricia Ann Blackmon, J., concur.

KEY WORDS: Motion for summary judgment on the pleadings, uninsured motorist, insurance.

The trial court properly granted the appellees' motion for summary judgment on the pleadings because a policy of insurance that names a corporation as an insured for uninsured or underinsured motorist coverage covers a loss sustained by an employee of the corporation only if the loss occurs within the course and scope of employment, and the appellant was not doing work in the scope of his business when the accident occurred.

105607 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v LAMONT L. MCKISSICK

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Affirmed.

Eileen T. Gallagher, P.J., Mary J. Boyle, J., and Patricia Ann Blackmon, J., concur.

KEY WORDS: *No contest plea; motion to withdraw; sentence; trial court; withdraw; highly competent counsel; plea hearing; intelligently; innocence; Crim.R. 11; colloquy.*

The trial court acted within its discretion when it denied defendant's motion to withdraw his no contest plea because the record showed that he waived his right to be represented by competent counsel, was given a full Crim.R. 11 hearing before he entered the pleas, was given a complete hearing on the motion to withdraw, and was given full and fair consideration to the plea withdrawal request.

105616 BEDFORD MUNI. G CIVIL MUNI. & CITY
DIANNA E. WILLIAMS v KIA OF BEDFORD

Affirmed.

Frank D. Celebrezze, Jr., J., Sean C. Gallagher, P.J., and Patricia Ann Blackmon, J., concur.

KEY WORDS: *Breach of contract; Consumer Sales Practices Act; R.C. Chapter 1345; defamation; fraud; Ohio Administrative Code; O.A.C. 109:4-3-03; O.A.C. 109:4-3-16; actual damages; manifest weight; treble damages; R.C. 1345.09.*

Appellant failed to prove actual damages resulting from defendant-appellee's breach of the lease agreement. The trial court's determination that appellee violated O.A.C. 109:4-3-03 by failing to advise appellant that the car she wanted to lease was not manufactured in the specific color she requested is supported by competent, credible evidence in the record; the trial court properly awarded \$200 in statutory damages to appellant for this violation. The trial court erred by finding that appellee violated O.A.C. 109:4-3-16. Appellant failed to meet her burden of proof on her defamation and fraud claims.

105656 DOMESTIC RELATIONS F CIVIL C.P.-JUV, DOM, PROBATE
ROLA MOUDED v ANTOINE H. KHOURY

Affirmed.

Melody J. Stewart, J., Eileen T. Gallagher, P.J., and Patricia Ann Blackmon, J., concur.

KEY WORDS: *Divorce; annulment; jurisdictional priority; res judicata.*

Ohio court did not err by dismissing a divorce action after a Massachusetts court annulled the marriage, even though the divorce action had been first filed, because the plaintiff in the divorce action filed an appeal of the Massachusetts judgment and

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was thus precluded from collaterally attacking the judgment in Ohio. As a matter of comity, it was not an abuse of discretion for the Ohio court to dismiss the divorce action once the parties' marriage had been annulled in another state.

105667 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v CHARLES D. ROBINSON

Affirmed.

Sean C. Gallagher, J., Mary J. Boyle, P.J., and Larry A. Jones, Sr., J., concur.

KEY WORDS: *Having weapons while under disability; drug possession; firearm specification; appoint new counsel; ineffective assistance of counsel; motion to suppress; sufficiency of the evidence; constructive possession.*

A motion to suppress would have been futile because the defendant could not demonstrate that he was "in custody" at the time he admitted owning contraband. Trial court did not abuse its discretion in denying defendant's untimely request for new appointed counsel. Defendant's convictions were not based on insufficient evidence because even without the defendant's admitted ownership of the contraband, the state contended that defendant constructively possessed the items.

105733 EUCLID MUNI. C CRIMINAL MUNI. & CITY
CITY OF EUCLID v DERRICK J. CANNON

Reversed and remanded.

Kathleen Ann Keough, J., Mary Eileen Kilbane, P.J., and Anita Laster Mays, J., concur.

KEY WORDS: *Explanation of circumstances; no contest plea; R.C. 2937.07*

Where the defendant's explanation of circumstances did not establish the elements of assault, the offense with which defendant was charged, the trial court erred in finding him guilty after his no contest plea and entering a judgment of conviction.

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105737 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v CHRISTOPHER BENNETT

Affirmed.

Tim McCormack, J., Mary Eileen Kilbane, P.J., and Eileen T. Gallagher, J., concur.

KEY WORDS: *Consecutive sentences; R.C. 2929.14(C)(4); clearly and convincingly; supported by the record.*

The trial court made the R.C. 2929.14(C)(4) consecutive sentence findings and we cannot clearly and convincingly find the record does not support the trial court's findings.

105759 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v TOMMIE E. ADAMS, JR.

Affirmed.

Anita Laster Mays, J., Eileen A. Gallagher, A.J., and Sean C. Gallagher, J., concur.

KEY WORDS: *Guilty plea, Crim.R. 11(C)(2).*

The appellant's guilty plea was made knowingly, intelligently, and voluntarily as the trial court fully complied with the sentencing requirements in Crim.R. 11(C)(2).

105781 JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE
IN RE: A.G.

Reversed and remanded.

Frank D. Celebrezze, Jr., J., Sean C. Gallagher, P.J., and Patricia Ann Blackmon, J., concur.

KEY WORDS: *Parental rights; change in circumstance; best interest; due process; motion to modify custody; Juv.R. 40; plain error; R.C. 3109.04.*

The trial court committed plain error by modifying custody because neither the court nor the magistrate made the requisite finding that there had been a change in circumstance.

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105793 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
OLIVIA WEISMAN, ET AL. v THOMAS WASSERMAN, JR., ET AL.

Reversed and remanded.

Mary Eileen Kilbane, P.J., Sean C. Gallagher, J., and Patricia A. Blackmon, J., concur.

KEY WORDS: *Motion for summary judgment; Civ.R. 56; dog bite; pit bull; common law; statute; R.C. 955.28; landlord; harbinger of dog; common area.*

Judgment reversed and remanded. Trial court improperly granted summary judgment in favor of landlord. The details of the attack consist of landlord's and tenant's after-the-fact account of the incident. Based on their accounts, there is evidence that the attack could have occurred in the hallway, which is a common area. When viewing this evidence in favor of the plaintiffs, we find genuine issues of material fact exist as to where the attack occurred. An attack in a common area would subject the landlord to liability as a harbinger of the pit bull.

105839 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
ANGUS HENDRY, ET AL. v CHARLES M. LUPICA, III, ET AL.

Affirmed.

Frank D. Celebrezze, Jr., J., Eileen T. Gallagher, P.J., and Larry A. Jones, Sr., J., concur.

KEY WORDS: *Real estate purchase; summary judgment; fraudulent inducement; fraud; mutual mistake; rescission; Civ.R. 56(C); caveat emptor; R.C. 5302.30; defect; motion for sanctions; Civ.R. 11.*

Because appellant had notice of the issues with the house's basement sufficient to trigger a duty to investigate further, the trial court did not err in granting summary judgment in favor of defendants-appellees on appellant's fraud, fraudulent concealment, and mutual mistake claims. Because the trial court has not ruled on appellees' motion for sanctions, this court does not have jurisdiction to review appellant's second assignment of error.

105924 JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE
IN RE: I.R.Q.

Reversed and remanded.

Kathleen Ann Keough, P.J., Anita Laster Mays, J., and Larry A. Jones, Sr., J., concur.

KEY WORDS: *Magistrate's decision; objections; independent*

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review; transcript; Juv.R. 40(D)(4).

Trial court abused its discretion in affirming and adopting the magistrate's decision without conducting the independent review required by Juv.R. 40(D)(4) where Mother filed objections to the decision and the trial court granted her request for a transcript, but then adopted the magistrate's decision and overruled Mother's objections without reviewing the transcript, which had yet to be filed. Trial court also abused its discretion in adopting the magistrate's decision modifying Father's visitation rights with child where neither the magistrate nor the trial court considered the R.C. 3901.051(D) best-interest factors before modifying visitation.

105949 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
JUANITA R. HOUSTON v AT&T TELEHOLDINGS, INC., ET AL.

Reversed and remanded.

Mary Eileen Kilbane, P.J., Tim McCormack, J., and Melody J. Stewart, J., concur.

KEY WORDS: *R.C. 4123.512(D); workers' compensation appeal; Ohio Civ.R. 41(A)*
Pursuant to the Ohio Supreme Court's holding in Ferguson v. State, 151 Ohio St.3d 265, 2017-Ohio-7844, ___ N.E.3d ___, R.C. 4123.512(D) is constitutional. R.C. 4123.512(D) requires a plaintiff-employee receive consent of the defendant-employer in order to voluntarily dismiss his or her complaint without prejudice where the employer initiated the workers' compensation appeal. Accordingly, under Ferguson, the trial court's grant of plaintiff-employee's motion to dismiss her complaint without defendant-employer's consent was reversible error as her employer filed the appeal with the common pleas court.

105986 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
CURTIS L. HEWSTON v AT&T TELEHOLDINGS, INC., ET AL.

Reversed and remanded.

Tim McCormack, J., Mary Eileen Kilbane, P.J., and Melody J. Stewart, J., concur.

KEY WORDS: *Workers' Compensation; R.C. 4123.512(D); consent; voluntary dismissal; Ferguson v. State, 151 Ohio St.3d 265, 2017-Ohio-7844, ___ N.E.3d ___; constitutional.*

The trial court erred in dismissing the employer-initiated workers' compensation appeal where the plaintiff-claimant filed a notice of voluntary dismissal without the employer's consent, in contravention of R.C. 4123.512(D).

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106043 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v BRIAN MAHON

Reversed and remanded; sentence vacated in part.

Tim McCormack, J., Eileen A. Gallagher, A.J., and Mary Eileen Kilbane, J., concur.

KEY WORDS: *Community control sanctions; abuse of discretion; R.C. 2929.15(A); conditions of release; alcohol-related; house arrest; reasonable relationship; rehabilitation; future criminality.*

The trial court abused its discretion when it imposed an alcohol-related community control condition where the condition bears no relationship to appellant's crime, nor is it reasonably related to rehabilitating appellant. Likewise, the trial court abused its discretion when it imposed house arrest with GPS monitoring where the condition is not reasonably related to rehabilitating the appellant, nor does it relate to conduct regarding future criminality.