

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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May 31, 2018

105125 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
VICTORIA DANIELS, ET AL. v NORTHCOAST ANESTHESIA PROVIDERS, INC., ET AL.

Reversed and remanded.

Melody J. Stewart, J.; Eileen T. Gallagher, J., concurs in judgment only with separate opinion; Kathleen Ann Keough, P.J., concurs in judgment only in part, and dissents in part with separate opinion.

KEY WORDS: *Cumulative error.*

The cumulative effect of multiple trial errors deprived the defendants of a fair trial.

105541 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v LEON D. JACKSON

Affirmed.

Eileen T. Gallagher, P.J., and Frank D. Celebrezze, Jr., J., concur; Larry A. Jones, Sr., J., dissents with attached dissenting opinion.

KEY WORDS: *Inconsistent verdicts; motion to suppress; exclusionary rule; warrantless search of vehicle; Crim.R. 29; ineffective assistance of counsel.*

Defendant's aggravated robbery conviction affirmed. It is not inconsistent to convict a defendant of aggravated robbery and acquit him of firearm specifications when the deadly weapon may be something other than a gun. The police acted in good faith when they arrested the defendant and they had probable cause to search the car used in the robbery. Defendant's conviction is supported by sufficient evidence in the record and there is no evidence in the record that his trial counsel was ineffective.

105592 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v MARIO C. TRAVIS

Affirmed.

Anita Laster Mays, P.J., Frank D. Celebrezze, Jr., J., and Kathleen Ann Keough, J., concur.

KEY WORDS: *Search and seizure, suppression of evidence, probable cause, lawful search of vehicle, disclosure of confidential informant.*

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(Case 105592 continued)

The trial court properly denied defendant's request to disclose the identity of the confidential informant due to concerns for the safety of the informant, and defendant's failure to establish that the information was vital to an element of the offense or required to prepare a defense. The warrantless search of defendant's vehicle was lawful because it occurred incident to his arrest after contraband was discovered on his person and also for vehicle inventory purposes to protect the contents prior to towing.

105661 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
WRRS, L.L.C. v CITY OF CLEVELAND BOARD OF BUILDING STANDARDS

Affirmed and remanded.

Mary Eileen Kilbane, P.J., Melody J. Stewart, J., and Larry A. Jones, Sr., J., concur.

KEY WORDS: Administrative appeal; standard of review; preponderance of substantial, reliable, and probative evidence; maintenance violations; waiver; res judicata.

Judgment affirmed. The issue on appeal is specific as to what was cited in 2016 — the removal of the currently existing debris piles. The Board's 2012 decision on a different violation did not waive the City's right to cite WRRS for a violation resulting from conditions on the property in 2016. On review, we conclude that the preponderance of substantial, reliable, and probative evidence supports the trial court's decision.

105698 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v JARRELL ST. ANTHONY FORD

Affirmed.

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

KEY WORDS: Batson challenge; race-neutral reason; clearly erroneous; hearsay; excited utterance; Evid.R. 803(2); abuse of discretion; ineffective assistance of counsel; outcome clearly different; Evid.R. 614(A); court's witness; authenticity of voice on jail call; Evid.R. 901.

Judgment affirmed. The trial court's denials of defendant's Batson challenges were not clearly erroneous when the state articulated its race-neutral reasons for striking the first prospective juror and the trial court expressed on the record its reasons for rejecting the Batson challenge. With regard to the second prospective juror, the concerns the court relied on represented a race-neutral explanation, were based upon something other than the race of the juror, and the juror who replaced second prospective juror was another African-American. The testimony by the witness of what one of the victims stated was admissible as an excited utterance.

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(Case 105698 continued)

Defense counsel was not ineffective for stipulating to calling the victim as a court's witness and stipulating to the authenticity of the jail-cell calls.

105933 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
PATRICK BARNO v DIRECTOR, ODJFS, ET AL.

Reversed and remanded.

Patricia Ann Blackmon, J., Mary J. Boyle, P.J., and Kathleen Ann Keough, J., concur.

KEY WORDS: Unemployment compensation; just cause to quit; failure to pay as promised.

UCRC's decision finding no just cause to quit and disallowing employee's unemployment compensation benefits was against the manifest weight of the evidence. Hearing officer's decision improperly found that employee's failure to quit "immediately" and failure to notify anyone other than his immediate supervisor of workplace issues did not amount to just cause to quit. Furthermore, hearing officer improperly concluded that the employer's failure to address the employee's concerns was reasonable; just cause to quit, under unemployment compensation law, focuses on the conduct of the employee, not the employer.

106051 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v TAYLOR MILLER

Affirmed.

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

KEY WORDS: Allied offenses of similar import; R.C. 2941.25; separate victims; robbery; R.C. 2911.02(A)(2); theft; R.C. 2913.02(A)(1); sentencing package doctrine; court costs.

The trial court did not err when it denied defendant's request to merge his two robbery convictions because there were two victims. Although defendant argued that there was only one victim, the bank who lost money in the robbery, the defendant threatened two bank tellers with his note that stated, "follow my directions and no one will get hurt." Although the bank was the victim of the theft offense (which the trial court did merge into the robbery convictions), the bank was not the victim of the robbery offense. Robbery is an offense against persons, while theft is an offense against property. The trial court did not violate the sentencing package doctrine because it imposed six years on each robbery offense. The trial court did not err when it imposed court costs on the defendant because there was nothing in the record to indicate that defendant, despite his indigency, could not pay his court costs.

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106107 JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE
IN RE: Tr.T., ET AL.

Affirmed.

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

KEY WORDS: *R.C. 2151.414; permanent custody; legal custody; clear and convincing; manifest weight; substance abuse; employment; basic needs; best wishes; relevant factors; guardian ad litem; reasonable efforts.*

Affirmed the trial court's decisions awarding permanent custody of children to CCDCFS and terminating parental rights where after two and one-half years, father had not completed case plan services, had continued substance abuse problems, did not have regular employment, and was unable to meet the children's basic needs. The trial court considered all relevant factors and its best-interest determination was supported by clear and convincing evidence and was not against the manifest weight of the evidence in the record.