

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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October 17, 2019

107845 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
TED NYLAND, ET AL. v OLMSTED FALLS CITY COUNCIL

Affirmed.

Raymond C. Headen, J., Patricia Ann Blackmon, P.J., and Larry A. Jones, Sr., J., concur.

KEY WORDS: *Quasi-legislative; quasi-judicial; R.C. 2506.01; and nuisance.*

By resolution, city council declared a bridge a nuisance that required abatement. Plaintiffs-appellants homeowners filed an appeal alleging the adoption of the resolution was a quasi-judicial administrative act that is appealable under R.C. 2506.01. Because city council was not legally required to provide plaintiffs-appellants homeowners with notice, a hearing, and an opportunity to introduce evidence prior to its adoption of the resolution, council's acts were legislative in nature and not subject to appeal under R.C. 2506.01. The trial court did not err when it granted city council's motion to dismiss for lack of subject matter jurisdiction.

108009 JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE
IN RE K.T.

Affirmed.

Frank D. Celebrezze, Jr., J., Mary Eileen Kilbane, A.J., and Eileen A. Gallagher, J., concur.

KEY WORDS: *Juvenile court; juvenile sex offender registration; R.C. 2152.83(B); R.C. 2152.83(D); R.C. 2950.11(K)(8).*

The juvenile court did not abuse its discretion in classifying appellant as a Tier II juvenile sex offender. Given the serious nature of the offense, the disparity in age between appellant and the victim, and appellant's use of his position of authority over the victim to facilitate the offense, the juvenile court did not act unreasonably, arbitrarily, or unconscionably in classifying appellant as a Tier II juvenile sex offender.

108083 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v CARL ADAMS

Affirmed.

Mary Eileen Kilbane, A.J., Frank D. Celebrezze, Jr., J., and Eileen A. Gallagher, J., concur.

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KEY WORDS: *Attempted felonious assault; R.C. 2929.11; R.C. 2929.12; R.C. 2953.08(G)(2).*

The defendant's sentence was valid where it was within the statutory range, the trial court considered the purposes and principles of felony sentencing and the statutory factors under R.C. 2929.11 and 2929.12, and the findings were supported by the record.

108129 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
DREW A. CARSON v KATHLEEN CARRICK, ET AL.

Affirmed.

Mary Eileen Kilbane, A.J., Frank D. Celebrezze, Jr., J., and Eileen A. Gallagher, J., concur.

KEY WORDS: *Motion for judgment on the pleadings; Civ.R. 12(C); abuse-of-process claim; compulsory counterclaim; Civ.R. 13(A); action on an account stated; and res judicata.*

The trial court did not err when it granted defendants-appellees' Civ.R. 12(C) motion for judgment on the pleadings. Construing all material allegations in the complaint and all reasonable inferences to be drawn therefrom in favor of the nonmoving party, there was no set of facts that would entitle plaintiff-appellant to relief. Plaintiff-appellant's abuse-of-process claim had to fail where the defendants-appellees sought a legitimate remedy that the court was empowered to grant. The trial court did not err when it determined plaintiff-appellant's action on an account stated was a compulsory counterclaim and barred by res judicata.

108314 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
NANCY RALLS, ET AL. v 2222 INTERNATIONAL, LLC, ET AL.

Dismissed.

Patricia Ann Blackmon, J., Eileen T. Gallagher, P.J., and Frank D. Celebrezze, Jr., J., concur.

KEY WORDS: *Denial of motion to appoint receiver; motion to dismiss; final appealable order; substantial right; special proceeding; provisional remedy.*

Defendants' motion to dismiss appeal for lack of a final appealable order is granted. Under the facts of this case, the denial of a motion to appoint receiver is not a final appealable order. Plaintiffs had no statutory right to a receiver, and the denial of such did not foreclose a meaningful remedy by appeal following final judgment.

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108355 JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE
IN RE C.D.Y., ET AL.

Reversed and remanded.

Patricia Ann Blackmon, J.; Mary Eileen Kilbane, A.J., concurs in judgment only; Sean C. Gallagher, J., concurs in part and dissents in part with attached separate opinion.

KEY WORDS: Legal custody; motion to modify custody; legal custody to nonparent.

The court erred by granting legal custody of children to nonparent who failed to file a motion to request custody as required under R.C. 2151.353(A)(3).