

CASE DECISION LIST

April 2, 2020

108254 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v DONALD HAWLEY

Modified in part, reversed and remanded.

Mary J. Boyle, P.J., and Kathleen Ann Keough, J., concur; Michelle J. Sheehan, J., concurs in part and dissents in part with separate opinion.

108343 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v ORTLEY WRIGHT

Reversed and remanded.

Patricia Ann Blackmon, J., and Eileen A. Gallagher, J., concur; Sean C. Gallagher, P.J., dissents with separate opinion.

KEY WORDS: Competency to stand trial; unrestorable; continuing jurisdiction; sexually violent; predator specification.

The trial court erred in finding by clear and convincing evidence that defendant committed a 2001 rape and was a sexual predator. R.C. 2945.39(C). The associated charges and specifications are dismissed. The remainder of the trial court's judgment is affirmed.

108424 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
LAILA AL JAWARY v ASHTEN E. UNDERWOOD, ET AL.

Reversed and remanded.

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

108438 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v JUMAINE JONES

Affirmed in part, vacated in part, remanded.

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

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108458 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v ARCADIO FLORES-SANTIAGO

Affirmed.

Eileen A. Gallagher, J., Mary J. Boyle, P.J., and Michelle J. Sheehan, J., concur.

KEY WORDS: *Manifest weight of the evidence; lack of physical evidence; single eyewitness; lack of corroboration; effect of witness' drug use; inconsistent or contradictory testimony.*

Defendant's convictions for attempted murder and felonious assault were not against the manifest weight of the evidence where victim was unwavering in his identification of defendant as his assailant, victim's statements and testimony were consistent in many material respects and existence of inconsistencies and omissions in defendant's testimony could have reasonably led the factfinder to disbelieve him. A conviction may rest on the testimony of a single witness, including the victim, if believed, and there is no requirement that a victim's testimony be corroborated to be believed. Physical evidence is not required to sustain a conviction against a manifest weight challenge. Fact that victim was "high" or that certain aspects of his testimony were inconsistent or contradictory did not mean that victim's testimony could not be relied upon to convict defendant.

108460 CLEVELAND MUNI. C CRIMINAL MUNI. & CITY
CITY OF CLEVELAND v LORINDA HOLLEY

Reversed and remanded.

Anita Laster Mays, J., Patricia Ann Blackmon, P.J., and Raymond C. Headen, J., concur.

KEY WORDS: *Ineffective assistance of counsel; exculpatory evidence.*

The appellant was deprived of the effective assistance of counsel when the appellant's trial counsel failed to introduce potentially exculpatory evidence. The appellant's counsel was so deficient such that the deficiency deprived the appellant of a fair trial.

108487 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v GREGORY PETER STEFAN

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Affirmed.

Mary Eileen Kilbane, J., Eileen T. Gallagher, A.J., and Sean C. Gallagher, J., concur.

108518 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v TREVON HUGHLEY

Affirmed.

Mary J. Boyle, P.J., Frank D. Celebrezze, Jr., J., and Mary Eileen Kilbane, J., concur.

108536 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
CLEVELAND BOTANICAL GARDEN v STACI K. WORTHINGTON DREWIEN, ET AL.

Affirmed in part, reversed in part, and remanded.

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

108548 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v AMIR ABDI AHMED

Affirmed.

Anita Laster Mays, J., Eileen T. Gallagher, A.J., and Mary Eileen Kilbane, J., concur.

KEY WORDS: *Motion to vacate postsentence guilty plea; Crim.R. 11(D).*

The trial court did not abuse its discretion by denying the appellant's motion to withdraw and vacate his postsentence guilty plea. Appellant has not demonstrated that his guilty plea was not entered knowingly, intelligently, and voluntarily.

108557 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v CORRIONNE LAWRENCE

108574 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v CORRIONE LAWRENCE

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Affirmed.

Patricia Ann Blackmon, J., Sean C. Gallagher, P.J., and Anita Laster Mays, J., concur.

108579 CLEVELAND MUNI. C CRIMINAL MUNI. & CITY
CITY OF CLEVELAND v DARNELLE RUSHTON

Affirmed in part, reversed in part, and remanded.

Mary J. Boyle, P.J., Frank D. Celebrezze, Jr., J., and Mary Eileen Kilbane, J., concur

108600 CLEVELAND MUNI. C CRIMINAL MUNI. & CITY
CITY OF CLEVELAND v TITO COLON

Reversed, vacated, and remanded.

Raymond C. Headen, J., Mary J. Boyle, P.J., and Kathleen Ann Keough, J., concur.

108605 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
JEFFREY MENDES v LOWE'S HOME CENTERS, LLC., ET AL.

Affirmed.

Anita Laster Mays, J., Eileen T. Gallagher, A.J., and Mary Eileen Kilbane, J., concur

KEY WORDS: *Civ.R. 60(B)(1), motion for relief from judgment, excusable neglect.*

The trial court's grant of appellee's motion for relief from judgment for excusable neglect under Civ.R. 60(B)(1) was not an abuse of discretion. Appellant filed for summary judgment while the parties were diligently engaged in discovery, mediation and preparing for arbitration. Summary judgment was granted as unopposed seven days after the response deadline and appellant filed for relief from the judgment within seven days of the ruling. Appellant was not prejudiced by the delay.

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108614 DOMESTIC RELATIONS F CIVIL C.P.-JUV, DOM, PROBATE

T. C. v J. R. C.

Affirmed.

Anita Laster Mays, J., Patricia Ann Blackmon, P.J., and Raymond C. Headen, J., concur.

KEY WORDS: *R.C. 3113.31, domestic violence civil protection order, nunc pro tunc.*

The trial court's nunc pro tunc modification to section 2 of the domestic violence civil protection order to properly reflect that the petitioner was granted exclusive use of the residence against respondent was not error.

108658 COMMON PLEAS COURT A CRIMINAL C.P.

STATE OF OHIO v CHRISTOPHER GALVAN

Affirmed.

Mary J. Boyle, P.J., Frank D. Celebrezze, Jr., J., and Mary Eileen Kilbane, J., concur.

108662 COMMON PLEAS COURT A CRIMINAL C.P.

STATE OF OHIO v DEMETRIUS MATTHEWS

Affirmed.

Patricia Ann Blackmon, J., Eileen T. Gallagher, A.J., and Raymond C. Headen, J., concur.

108712 JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE

IN RE W.E., ET AL.

Affirmed.

Anita Laster Mays, P.J., Michelle J. Sheehan, J., and Raymond C. Headen, J., concur.

KEY WORDS: *R.C. 2151.353(A)(4); permanent placement of neglected child; R.C. 2151.414(E)(1); parents unable to remedy removal conditions; R.C. 2151.414(D)(1); best interest of child.*

The trial court's award of permanent custody to the social welfare agency is supported by sufficiently clear and convincing evidence and is not against the manifest weight. The appellant mother was

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unable to resolve issues of ongoing drug abuse and to provide a suitable home. The trial court did not abuse its discretion in determining that permanent custody is in the best interest of the child.

108734 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v JAVONTE L. HODGES

Affirmed.

Anita Laster Mays, P.J., Kathleen Ann Keough, J., and Michelle J. Sheehan, J., concur.

108872 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v COREY L. MIDDLETON

Affirmed.

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

KEY WORDS: *Application of jail-time credit; Ohio Department of Rehabilitation and Correction; writ of mandamus.*

Trial court did not err in denying defendant's motion to order the Ohio Department of Rehabilitation and Correction to correctly apply jail-time credit previously ordered by the trial court. The proper method to obtain the relief sought by defendant would be to file an original action for a writ of mandamus to compel the Ohio Department of Rehabilitation and Correction to apply jail-time credit consistent with the trial court's order.

108940 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
STATE OF OHIO v THOMAS PONDEXTER

Affirmed.

Patricia Ann Blackmon, J., Eileen A. Gallagher, J., concurs; Sean C. Gallagher, P.J., concurs in judgment only with separate opinion.

KEY WORDS: *Postconviction; R.C. 2953.21.*

The trial court properly denied the motion to vacate conviction; the conviction was not void due to amendment of the indictment where the waiver occurred.