

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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April 16, 2020

108121 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v DARRYL SMITH

Affirmed.

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

108222 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
MARGARET A. HUSTON v BROOKPARK SKATELAND SOCIAL CLUB, INC.

Reversed and remanded.

Larry A. Jones, Sr., J., Anita Laster Mays, P.J., and Michelle J. Sheehan, J., concur.

KEY WORDS: *Civ.R. 56(C)/summary judgment; R.C. Chapter 4171/operation of roller skating facilities/duties of roller skaters; assumption of the risks.*

The trial court erred where it granted summary judgment to appellee. Affidavit and deposition testimony, when viewed favorably to appellant, created a genuine issue of material fact as to whether appellee acted recklessly.

108227 PARMA MUNI. C CRIMINAL MUNI. & CITY
CITY OF PARMA v ZIAD TAYEH

Vacated in part and remanded.

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

108293 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v DWAYNE T. COOPER

Affirmed.

Anita Laster Mays, P.J., Eileen A. Gallagher, J., and Raymond C. Headen, J., concur.

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108299 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v MICHAEL DANIELS, JR.

Affirmed.

Larry A. Jones, Sr., J., and Frank D. Celebrezze, Jr., J., concur; Mary J. Boyle, P.J., concurs in part and dissents in part with separate opinion.

108377 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v DWAYNE HARRIS

Affirmed.

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

108381 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v TAMIR H. BUTTS

Affirmed.

Frank D. Celebrezze, Jr., J., and Patricia Ann Blackmon, P.J., concur; Eileen A. Gallagher, J., concurs in judgment only with separate opinion.

KEY WORDS: *Rape; R.C. 2907.02; expert witness; expert testimony; Evid.R. 702; scope; plain error; Crim.R. 52; victim-impact evidence; sentence; R.C. 2953.08; R.C. 2971.03; contrary to law.*

The trial court did not abuse its discretion or err in permitting the state's expert witness to testify about the effects that trauma has on child victims of sexual abuse. Appellant's sentence is not contrary to law.

108500 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v RANDY CLAY

Affirmed.

Eileen T. Gallagher, A.J., and Larry A. Jones Sr., J., concur; Kathleen Ann Keough, J., concurs in judgment only.

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108540 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
ALLYSON EIGHMEY v CITY OF CLEVELAND

Reversed and remanded.

Frank D. Celebrezze, Jr., J., Sean C. Gallagher, P.J., and Raymond C. Headen, J., concur.

KEY WORDS: *Summary judgment; Civ.R. 56; unjust enrichment; traffic camera; class certification; Civ.R. 23; typicality; standing; res judicata; administrative remedies.*

The trial court erred in granting defendant-appellee's motion for summary judgment. Appellant sufficiently demonstrated the existence of genuine issues of material fact regarding whether the tickets were valid.

108641 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
ST. VINCENT CHARITY v MICHAEL PALUSCSAK, ET AL.

Reversed and remanded.

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

KEY WORDS: *Failure to prosecute; Civ.R. 41(B); motion for relief from judgment; Civ.R. 60(B); final appealable order; abuse of discretion; pretrial hearing; notice.*

The trial court abused its discretion in dismissing appellant's counterclaim for failure to prosecute.

108646 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
STATE OF OHIO v RICHARD LENARD

Affirmed.

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

108674 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v AARON SMITH

Affirmed.

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

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KEY WORDS: *Felony sentence; R.C. 2953.08; consecutive sentences; R.C. 2929.14; contrary to law.*

The trial court did not err in imposing consecutive sentences. The trial court made the requisite consecutive-sentence findings, the record clearly and convincingly supports the trial court's findings, and consecutive sentences are not contrary to law.

108706 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
STATE OF OHIO, EX REL., DAVE YOST, ET AL. v
BAUMANN'S RECYCLING CENTER, LLC, ET AL.

Affirmed.

Patricia Ann Blackmon, J., and Anita Laster Mays, J., concur, Sean C. Gallagher, P.J., concurs with separate opinion.

108732 PARMA MUNI. G CIVIL MUNI. & CITY
KIRNER & BOLDT CO., LPA v JEFFREY J. ALMAN

Affirmed.

Kathleen Ann Keough, J., Frank D. Celebrezze, Jr., P.J., and Eileen A. Gallagher, J., concur.

108735 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v LOUIS BELLO

Affirmed.

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

108825 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v JOSE LEBRON

Affirmed.

Raymond C. Headen, J., Larry A. Jones, Sr., P.J., and Kathleen Ann Keough, J., concur.