

## CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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February 6, 2020

**108232** CLEVELAND MUNI. C CRIMINAL MUNI. & CITY  
CITY OF CLEVELAND v CHRISTOPHER GRAHAM

Dismissed.

Larry A. Jones, Sr., P.J., Kathleen Ann Keough, J., and Michelle J. Sheehan, J., concur.

**KEY WORDS:** *Motion to dismiss; R.C. 2505.02/final, appealable order; common-law qualified immunity.*

**The trial court's denial of appellant's motion to dismiss did not result in a final, appealable order.**

**108470** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
MICHAEL MOBLEY, ET AL. v RONALD JAMES

Affirmed.

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

**KEY WORDS:** *Summary judgment; Civ.R. 56; fraud; sewer backups; caveat emptor; "as is" sale; R.C. 5302.30; residential property disclosure form; home inspection; justifiable reliance.*

**Trial court did not err in granting summary judgment in favor of seller on buyers' fraud claim. Based on information buyers received from their home inspector during the pre-sale home inspection, there was no genuine issue of material fact that buyers were on notice that there was a history of sewer backups affecting both the property specifically and the neighborhood generally and that there was a risk of additional sewer backups affecting the property in the future such that buyers could not have justifiably relied on any alleged misrepresentations by seller in the residential property disclosure form.**

**108537** JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE  
IN RE R.G.

Reversed and remanded.

Patricia Ann Blackmon, P.J.; Raymond C. Headen, J., concurs; Kathleen Ann Keough, J., dissents with attached opinion.

**KEY WORDS:** *R.C. 2151.414; parental rights; dependent child; permanent custody; reunification efforts.*

**The trial court erred in terminating mother's parental rights where**

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(Case 108537 continued)

**son was deemed a dependent child due to medical issues, was placed in foster care outside of the county, mother had visitation difficulties, and mother showed improvement in ability to care for him while son showed some improvement in health.**

**108806** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
JOHNNY THOMPSON v CUYAHOGA COUNTY CLERK OF COURTS

Affirmed.

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

**KEY WORDS: Political subdivision; immunity; official capacity; clerk of courts; governmental function; Civ.R. 12(B)(6); motion to dismiss.**

**Appellant filed a civil complaint against the Cuyahoga County Clerk of Courts alleging improper handling of a criminal complaint. The trial court granted defendant's Civ.R. 12(B)(6) motion to dismiss; the motion to dismiss was properly granted because county-defendant is immune.**

**108834** JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE  
IN RE Z.J.

Affirmed.

Sean C. Gallagher, P.J., Kathleen Ann Keough, J., and Michelle J. Sheehan, J., concur.

**KEY WORDS: Permanent custody; parental rights; incarcerated; father; due process; continuance; abuse of discretion; ineffective assistance of counsel.**

**Affirmed the trial court's decision awarding permanent custody of the child to the children services agency and terminating the parental rights of father. Father, who had been repeatedly incarcerated and was in prison at the time of the permanent custody hearing, failed to establish that he was denied due process, that the trial court abused its discretion in denying his motion for continuance, or that he received ineffective assistance of counsel.**

**108952** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v RICO TRONE

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**108966** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v RICO V. TRONE

Reversed.

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

***KEY WORDS: Postrelease control; prison; nunc pro tunc.***

***Any correction regarding postrelease control must occur prior to the offender being released from prison, and failure to do so renders that portion of a defendant's sentence void.***