

CASE DECISION LIST

January 23, 2020

108126 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
STATE OF OHIO v S.J.

Reversed and remanded.

Anita Laster Mays, P.J., and Larry A. Jones, Sr., J., concur; Michelle J. Sheehan, J., concurs in part and dissents in part with separate opinion.

KEY WORDS: *Expungement; eligible offender; res judicata.*

The trial court abused its discretion when it denied the appellant's motion for expungement because it failed to determine whether the appellant had been rehabilitated, and also failed to weigh any of the appellant's interests in sealing her convictions against the state's interest in maintaining them. The trial court also erred when it deemed the appellant an ineligible offender barred by res judicata.

108186 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
STERLING CONTRACTING, LLC v MAIN EVENT ENTERTAINMENT, LP ET AL.

108187 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
WESTERN RESERVE SERVICES ONE, LLC v MAIN EVENT ENTERTAINMENT, LP ET AL.

Affirmed.

Anita Laster Mays, J., and Larry A. Jones, Sr., J., concur; Eileen T. Gallagher, A.J., concurs in judgment only with separate opinion.

KEY WORDS: *Motion to stay proceeding, arbitration, frivolous action.*

The trial court did not err when it denied the appellants motion to stay proceeding pending arbitration, because the appellants were not parties to the arbitration agreement. Additionally, the appellees must first file a motion with the trial court to determine if the appellants engaged in frivolous conduct.

108212 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
SHANNON THOMAS v HYUNDAI OF BEDFORD, ET AL.

Reversed and remanded.

Kathleen Ann Keough, J., Mary Eileen Kilbane, P.J., and Eileen A. Gallagher, J., concur.

KEY WORDS: *Arbitration agreement; race discrimination;*

CASE DECISION LIST

(Case 108212 continued)

retaliation; motion to stay litigation pending arbitration; non-class action claims; procedurally unconscionable; substantively unconscionable.

Trial court abused its discretion in granting employer's motion to stay litigation pending arbitration where the arbitration agreement was both substantively and procedurally unconscionable.

108223 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v MATTHEW C. JUNG

Reversed and remanded.

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

KEY WORDS: R.C. 3734.03; R.C. 3734.99; definite sentence.

The trial court's judgment was reversed and remanded for resentencing to impose a definite sentence of "at least two years, but not more than four years" pursuant to penalties set forth in R.C. 3734.99 for a violation of open dumping under R.C. 3734.03.

108268 SOUTH EUCLID MUNI. C CRIMINAL MUNI. & CITY
CITY OF SOUTH EUCLID v DEQUAN FORTSON

Affirmed.

Larry A. Jones, Sr., J., Mary J. Boyle, P.J., and Frank D. Celebrezze, Jr., J., concur.

KEY WORDS: Traffic stop; motion to suppress; motion to dismiss; South Euclid Ordinance 337.27(d); home rule police power; R.C. 4513.263 (B) and (D).

The traffic stop, made solely for the purpose to issue a citation for failure to wear a seatbelt, was in violation of R.C. 4513.263(D). The authority to self-govern, permitted under the home-rule provision of the Ohio Constitution, does not apply to this case. The traffic stop was not for a primary offense. The trial court did not err where it converted appellee's motion to suppress to a motion to dismiss and granted the motion.

108335 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v ARNOLD BLACK, JR.

CASE DECISION LIST

Affirmed.

Sean C. Gallagher, P.J., Frank D. Celebrezze, Jr., J., and Larry A. Jones, Sr., J., concur.

KEY WORDS: *Guilty plea; knowing; voluntary; intelligent; prejudice; consecutive sentences; R.C. 2929.14(C); R.C. 2929.11; R.C. 2929.12; consideration.*

Defendant cannot demonstrate that he would not have entered the plea had the trial court's advisement regarding the sex offender registration requirements lacked substantial compliance because he was already subjected to the highest tier of reporting requirements. The consecutive sentence findings were supported by the record, and the record demonstrates that the trial court considered all the factors required by law.

108338 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v MATTHEW P. RECORD

Affirmed.

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

KEY WORDS: *R.C. 2929.11, R.C. 2929.12, R.C. 2929.14(C)(4), consecutive sentences.*

The trial court did not err when it sentenced the appellant to consecutive sentences because the sentence was not contrary to law, and the trial court made the necessary statutory findings in accordance with R.C. 2929.11 and R.C. 2929.12. The trial court fully complied with R.C. 2929.14(C)(4) and the appellant's consecutive sentences were not improperly imposed.

108345 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v SEAN LEMOINE

Affirmed.

Larry A. Jones, Sr., J., Sean C. Gallagher, P.J., and Frank D. Celebrezze, Jr., J., concur.

KEY WORDS: *Crim.R. 11 (C)/guilty plea; Crim.R. 32.1/motion to withdraw guilty plea; plain error; sex offender registration.*

The trial court strictly complied in informing appellant of his constitutional rights and substantially complied in informing appellant of his nonconstitutional rights. The trial court's advisement of the possibility of sex offender registration was stated out of caution. Appellant suffered no prejudice where at sentencing the sex offender registration requirement was not imposed. Appellant's guilty plea was voluntarily and intelligently made.

CASE DECISION LIST

108419 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v RICKY JOHNSON

Affirmed.

Michelle J. Sheehan, J., Kathleen Ann Keough, P.J., and Mary Eileen Kilbane, J., concur.

KEY WORDS: *Void sentence; parole eligibility; indefinite; statutorily mandated terms; authorized by law; res judicata.*

The statute under which the defendant was sentenced does not specifically set forth parole eligibility and therefore the trial court's failure to include that language was proper. Furthermore, the trial court's failure to include the term "indefinite" in his sentence did not render his sentence void where the 15-year-to-life prison sentence was indefinite by its nature. The sentence was therefore authorized by law and is not void. Res judicata bars the defendant's claim on appeal.

108787 COMMON PLEAS COURT A CRIMINAL C.P.
ALEXANDER NIKOOYI v AFFIDAVIT OF CRIMINAL COMPLAINT

108801 COMMON PLEAS COURT A CRIMINAL C.P.
ALEXANDER NIKOOYI v AFFIDAVIT OF CRIMINAL COMPLAINT

Dismissed.

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

KEY WORDS: *R.C. 2935.09; R.C. 2935.10; mootness.*

The trial court did not abuse its discretion in referring citizen's R.C. 2935.09 "Affidavits of Criminal Complaint" to the prosecutor for investigation; citizen's challenge to the trial court's refusal to issue arrest warrants, after the trial court referred the matter to the prosecutor's office was rendered moot once the prosecutor declined to bring charges.