

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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March 19, 2020

108093 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v JOSE MONTANEZ

Affirmed.

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

KEY WORDS: *Guilty plea; medication; constitutional rights; right to jury trial; nonconstitutional rights; maximum penalty involved; postrelease control.*

Defendant entered guilty plea knowingly, intelligently, and voluntarily even though he was on anxiety medication where court inquired into the effect of the medication on the defendant's understanding, and the court carefully questioned defendant to ensure he understood every aspect of the plea proceedings.

108372 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v SCOTT A. MCHUGH, JR.

Affirmed.

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

KEY WORDS: *R.C. 2929.11; R.C. 2929.12; sentence; aggravated vehicular homicide; driving while under the influence; mitigating factors.*

McHugh's sentence was affirmed on appeal because the record indicates that the trial court properly considered mitigating factors at the sentencing hearing.

108453 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v THOMAS A. KOVATCH

Affirmed.

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

KEY WORDS: *R.C. 2929.11/felony sentencing; findings; mitigating factors; R.C. 2929.14(A)/statutory range.*

The trial court's 8-year sentence was not excessive or contrary to law. The trial court considered the seriousness of the offenses and considered the mitigating factors on the record; those factors did

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(Case 108453 continued)

not weigh in favor of granting appellant community control sanctions.

108499 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v MARCELLUS SMITH

Affirmed.

Eileen T. Gallagher, A.J., and Mary Eileen Kilbane, J., concur; Sean C. Gallagher, J., concurs with separate opinion.

KEY WORDS: Allied offenses; void sentence; authorized by law; res judicata.

Postconviction motion to merge allied offenses was barred by res judicata where court never considered whether to merge allied offenses since the parties agreed the defendant's convictions were not allied offenses.

Argument that consecutive sentences were contrary to law was not properly before the court where defendant failed to raise the argument in the trial court.

108532 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
DE'CARLA D. DAY v ROCHLING-GLASTIC COMPOSITES, LP, ET AL.

Affirmed.

Eileen T. Gallagher, A.J., Larry A. Jones, Sr., J., and Kathleen Ann Keough, J., concur.

KEY WORDS: Directed verdict; judgment notwithstanding the verdict; workers' compensation; repetitive motion injury; discernible period of time.

Trial court properly overruled motions for directed verdict and for judgment notwithstanding the verdict where plaintiff presented sufficient evidence to prove that her injury was proximately caused by her work activities and that it developed over a discernible period of time.

108792 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
21ST MORTGAGE CORPORATION v BRYCE WHITE, ET AL.

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Dismissed.

Mary Eileen Kilbane, J., Mary J. Boyle, P.J., and Sean C. Gallagher, J., concur.

KEY WORDS: *Default judgment; foreclosure; mortgage.*

We dismissed the appeal as moot. An appeal from a decree of foreclosure is moot where the debtor fails to obtain a stay. In this case, the appellant failed to take any affirmative action to halt the sale of his property.

108859 JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE
IN RE E.S.

Affirmed.

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

KEY WORDS: *Serious youthful offender disposition; written notice of intent; amenability hearing; dismissal of indictment; R.C. 2152.13.*

We affirmed the decision of the juvenile division to dismiss a second indictment filed against a juvenile, where the state sought a serious youthful offender disposition without first filing a written notice of intent.

109273 CLEVELAND MUNI. C CRIMINAL MUNI. & CITY
CITY OF CLEVELAND v JOVAN ROBINSON

Reversed and remanded.

Larry A. Jones, Sr., J., Sean C. Gallagher, P.J., and Eileen A. Gallagher, J., concur.

KEY WORDS: *Contempt; R.C. 2705.03/procedural protections/indirect contempt; conceded error.*

Appellant's actions would amount to a violation of indirect contempt. The trial court erred where it found appellant guilty of direct contempt.