

## CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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**September 24, 2020**

**108913** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
STATE OF OHIO v JOHN DONALD CODY

Affirmed.

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

**KEY WORDS:** *Postconviction relief; excessive fine; res judicata; subject-matter jurisdiction; R.C. 2953.23; ineffective assistance of counsel.*

**The trial court did not have subject-matter jurisdiction to consider defendant's third petition for postconviction relief where it was untimely. Moreover, the petition was based on a claim that has been unsuccessfully litigated in a prior appeal, and lacked merit.**

**109086** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
DANIEL J. KLONOWSKI v MERRILL LYNCH, ET AL.

Reversed and remanded.

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

**KEY WORDS:** *Motion to compel arbitration; procedural unconscionability; substantive unconscionability.*

**Trial court erred by denying appellants' motion to compel arbitration and stay the proceedings. Appellee failed to show that the arbitration clause he signed was procedurally or substantively unconscionable. Incorporating the arbitration forum's rules by reference does not render an agreement invalid.**

**109120** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v RICKY DUNBAR, JR.

Affirmed.

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

**KEY WORDS:** *Gross sexual imposition; R.C. 2907.05; sexually violent predator specification; sexual predator; R.C. 2950.09; Crim.R. 32; jury waiver; res judicata.*

**The trial court did not err or abuse its discretion in denying appellant's motion to correct illegal sentence, motion to strike appellee's brief in opposition to appellant's motion to correct illegal**

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(Case 109120 continued)

**sentence, or motion to strike appellant's voluntary waiver of his right to a jury trial. Appellant's arguments challenging the validity of his convictions and sentence are barred by res judicata.**

**109311** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
DANA GIBSON v TERRY SHEPARD, ET AL.

Reversed and remanded.

Patricia Ann Blackmon, P.J., Michelle J. Sheehan, J., and Raymond C. Headen, J., concur.

***KEY WORDS: Probate court; exclusive jurisdiction; summary judgment; breach of contract; fraud.***

***General division of court of common pleas had jurisdiction over claim for fraud in connection with estate; due to conflicting evidence in the record, the trial court erred in awarding defendant's summary judgment on plaintiff's claims for breach of contract, fraud, and mishandling of his mother's estate.***