

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

Page: 1 of 4

December 23, 2021

109686	COMMON PLEAS COURT STATE OF OHIO v MICHAEL HUTCHINS	A	CRIMINAL C.P.
109687	COMMON PLEAS COURT STATE OF OHIO v MICHAEL C. HUTCHINS	A	CRIMINAL C.P.
109688	COMMON PLEAS COURT STATE OF OHIO v MICHAEL HUTCHINS	A	CRIMINAL C.P.

Affirmed.

Mary Eileen Kilbane, J., and Anita Laster Mays, P.J., concur; Kathleen Ann Keough, J., concurs in judgment only.

KEY WORDS: *R.C. 2903.41-44; Sierah's Law; violent offender database; registration; retroactive application; constitutional; intent-effects tests; Ohio Constitution Article II, Section 28; U.S. Constitution Article I, Sections 9 and 10; ineffective assistance of counsel; not ineffective if objection was trivial.*

Defendant's requirement to register in the violent offender database pursuant to R.C. 2903.41-44, also known as Sierah's Law, did not violate his rights under the Ohio Constitution Article II, Section 28; U.S. Constitution Article I, Sections 9 and 10. His registration was not a violation of the Retroactivity Clause of the Ohio Constitution or the Ex Post Facto Clause of the U.S. Constitution. Further, trial counsel was not ineffective for failing to object to defendant's registration in the violent offender database given the law's constitutionality; any objection would be trivial.

110290	COMMON PLEAS COURT 12100 BUCKEYE LTD v COUNCIL FOR ECONOMIC OPPORTUNITIES IN GR. CLEVE.	E	CIVIL C.P.-NOT JUV,DOM OR PRO
---------------	--	---	-------------------------------

Affirmed.

Lisa B. Forbes, J., Sean C. Gallagher, P.J., and Emanuella D. Groves, J., concur.

KEY WORDS: *Commercial lease; summary judgment; lease renewal; holdover tenant; breach; affidavit based on personal knowledge; promissory estoppel.*

The trial court did not err by granting summary judgment to a tenant on landlord's breach of lease claims. Tenant did not renew the lease per the express provision of the document. Therefore, tenant was a holdover tenant on a month-to-month term. Landlord failed to show that tenant breached the lease. The court did not err by striking parts of an affidavit that were not based on personal knowledge and amounted to legal conclusions. A promissory estoppel claim will necessarily fail when there is an enforceable contract between the parties.

CASE DECISION LIST

110461 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
GREGORY WILSON v ROSE METALS INDUSTRIES, INC., ET AL.

Affirmed.

Frank D. Celebrezze, Jr., P.J., Kathleen Ann Keough, J., and Lisa B. Forbes, J., concur.

KEY WORDS: *Summary judgment; de novo; workers' compensation; R.C. 4123.74; immunity; R.C. 4123.35; employer; staffing agency; payment of workers' compensation premiums; control over performance of work; compliance with workers' compensation statutes; direct or indirect payment of premiums.*

The trial court did not err in granting summary judgment in favor of the customer of the staffing agency. For purposes of workers' compensation, the customer was appellant's employer and was in compliance with R.C. 4123.35 at the time of the accident. Thus, the customer was entitled to immunity on appellant's claims, and appellant's sole assignment of error is overruled.

110503 JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE
IN RE: A.F., ET AL.

Affirmed.

Sean C. Gallagher, P.J., Mary Eileen Kilbane, J., and Emanuella D. Groves, J., concur.

KEY WORDS: *Permanent custody; reasonable efforts; legal custodian; visitation; foster home; distance; placement; ineffective assistance; legal custody; best interest; bond; clear and convincing; manifest weight; R.C. 2151.414(B); R.C. 2151.414(D)(1).*

Affirmed award of permanent custody to children services agency. The juvenile court did not abuse its discretion in finding reasonable efforts were made in its permanent-custody decisions. The agency provided case-plan services and supportive-visitation services and although the children were placed in a foster home almost three hours away, the record showed the agency made extensive efforts to facilitate visitation with their mother and their former legal custodian. Mother failed to demonstrate that she received ineffective assistance of trial counsel with regard to trial counsel's decision not to pursue legal custody to an interested individual. The juvenile court's determination that an award of permanent custody is in the best interest of each child was supported by clear and convincing evidence in the record and was not against the manifest weight of the evidence. Although the children's former legal custodian completed case-plan services and was reunified with her biological children, the record reflected that the juvenile court considered and weighed all relevant best-interest factors under R.C. 2151.414(D)(1) and other relevant factors in deciding whether to award permanent custody.

CASE DECISION LIST

110581 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
JOSEPH IANETTA v JOYCE PASSOV COMMERCIAL PROPERTY MANAGMENT, LLC

Affirmed.

Frank D. Celebrezze, Jr., P.J., Kathleen Ann Keough, J., and Lisa B. Forbes, J., concur.

KEY WORDS: *Summary judgment; Civ.R. 56; negligence; slip and fall; invitee; premises liability; open and obvious; expert report; attendant circumstances.*

The trial court properly granted summary judgment in favor of defendants in appellant's premises liability negligence action. Any danger posed by the speed bumps upon which appellant tripped and fell was open and obvious, obviating any duty defendants had to warn appellant of the danger. The attendant circumstances exception to the open-and-obvious doctrine is inapplicable in this case. Appellant failed to produce evidence demonstrating the existence of a genuine issue of material fact that precluded judgment as a matter of law in favor of defendants.

110636 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
GENE B. PHILLIPS, ET AL. v ACACIA ON THE GREEN CONDOMINIUM ASSOCIATION, ET AL.

Affirmed.

Kathleen Ann Keough, J., Frank D. Celebrezze, Jr., P.J., and Lisa B. Forbes, J., concur.

KEY WORDS: *Summary judgment; expert testimony; restriction; patio grills; claims of financial mismanagement.*

Trial court did not err in granting summary judgment to appellees on all of appellants' claims where appellants' claims asserting financial mismanagement by a condominium association and its board with a multimillion dollar yearly operating budget were beyond the general knowledge and experience of mankind and thus required expert opinion testimony, but appellants offered no expert testimony to refute appellees' experts, and where the condominium association's rule prohibiting personal patio grills did not violate appellants' easement to their patios, was reasonable, and did not violate Ohio condominium law.

110663 JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE
IN RE C.P.

Reversed and remanded.

Mary J. Boyle, A.J., Sean C. Gallagher, J., and Michelle J. Sheehan, J., concur.

KEY WORDS: Guardian ad litem; delinquency; extraordinary fees; Cuyahoga C.P. Loc.Juv.R. 15(D); juvenile court fee schedule and Assigned Counsel and GAL Fee Bill Policy; abuse of discretion.

The juvenile court abused its discretion when it found that the guardian ad litem’s services were “reasonable and necessary” but nonetheless denied his motion for extraordinary fees without explanation.