

CASE DECISION LIST

February 11, 2021

109253 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v WIMBERLY THOMPSON

Affirmed.

Lisa B. Forbes, J., Larry A. Jones, Sr., P.J., and Mary Eileen Kilbane, J., concur.

KEY WORDS: *Felonious assault; aggravated vehicular assault; admissible evidence; computer generated data; hearsay; sufficiency of the evidence; manifest weight of the evidence; speedy trial violation; jury instructions; consecutive sentences; preliminary hearing.*

Defendant's convictions for felonious assault, aggravated vehicular assault, and other felony offenses are affirmed. There is overwhelming evidence in the record that defendant drove his vehicle at a high speed while his girlfriend was on the hood of the car. Defendant crashed, and his girlfriend sustained severe injuries including permanent brain damage.

109290 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
W.W. v A.P.

Affirmed and remanded.

Michelle J. Sheehan, J., Kathleen Ann Keough, P.J., and Eileen A. Gallagher, J., concur.

KEY WORDS: *Civil stalking protection order; R.C. 2903.214; final appealable order; App.R. 4; sanctions for contempt, R.C. 2705.05.*

A civil stalking protection order ("CSPO") issued under R.C. 2903.214 is a final appealable order. A finding of contempt and imposition of a sanction for contempt of a CSPO is a final appealable order. An appellant alleging error in the issuance of a CSPO or a finding of contempt must timely appeal those orders. A trial court may award expenses to protected parties of a CSPO for bringing a contempt action, and the trial court is not required to consider the contemnor's ability to pay the expenses. An award of parking fees and one day of lost wages to protected parties of a CSPO who appeared at a contempt hearing is not an abuse of discretion.

CASE DECISION LIST

109402 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v SYLVESTER SMITH, JR.

Affirmed.

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

KEY WORDS: *Manifest weight; toolmark analysis; touch DNA; reliability; gruesome photographs; autopsy; trajectory; prejudice; probative; aid.*

Reliability of toolmark and touch DNA analysis goes to the weight of the evidence. It is within the province of the jury to attach the amount of weight to the evidence on the expert testimony regarding toolmark and touch DNA analysis that it deemed appropriate. The trial court did not abuse its discretion in admitting autopsy photographs, even if deemed gruesome, because the probative value was not substantially outweighed by any unfair prejudice. The photographs illustrated the medical examiner's testimony on trajectory of the gunshot wounds. Additionally, the photographs aided the jury in understanding the state's case.

109589 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v ANTHONY LANIER

Affirmed.

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

KEY WORDS: *Domestic violence; effective assistance of counsel; strategy; manifest weight; credibility contest.*

Defendant failed to withstand his burden of demonstrating that counsel rendered ineffective assistance because the record reveals that counsel reviewed all evidence prior to trial. Trial counsel's decision to not use the victim's recorded phone calls could have been a matter of strategy. A conviction based on a credibility contest is not against the manifest weight when the victim's testimony is corroborated by other evidence, and the defendant's testimony is not.

109659 BEREA MUNI. G CIVIL MUNI. & CITY
JCASA v ED DEAN

Affirmed.

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

KEY WORDS: *Objections to a magistrate's decision; Civ.R. 53(D)(4)(d); breach of contract; accord and satisfaction.*

The trial court did not abuse its discretion when it overruled the defendant's objections to the magistrate's recommendation. The trial court's judgment entry does not need to include a detailed explanation to show that the trial court engaged in an independent review of the record. Neither party made an argument about accord and satisfaction at trial.

109948	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v RAYSHAWN OGLETREE			

Affirmed.

Eileen A. Gallagher, J., Sean C. Gallagher, P.J., and Frank D. Celebrezze, Jr., J., concurs.

KEY WORDS: *Motion to release surety from obligation; R.C. 2937.40.*

Trial court did not err in denying defendant's motion to release surety from obligation where there was nothing in the record to indicate bond was ever posted and there was, therefore, no surety to discharge or release.