

November 10, 2021

109999 DOMESTIC RELATIONS F CIVIL C.P.-JUV, DOM, PROBATE
ANDREA MOORE v GREGORY MOORE

Vacated and remanded.

Eileen A. Gallagher, J., and Mary J. Boyle, A.J., concur; Sean C. Gallagher, J., concurs in judgment only with separate opinion.

KEY WORDS: *Civ.R. 75(L); App.R. 9.*

Husband appealed the final decree of divorce and argued that clerk of courts failed to serve him as required by the civil rules. The record from the clerk of courts lacks any entries from the material part of the case. This lack of record prevents this court from effectively reviewing the decision of the trial court. Accordingly, the decree of the trial court is vacated.

110259 DOMESTIC RELATIONS F CIVIL C.P.-JUV, DOM, PROBATE
JURGITA BANDZA v ARTURAS BANDZA

Affirmed in part, reversed in part, and remanded.

Anita Laster Mays, P.J., Larry A. Jones, Sr., J.,* and Mary Eileen Kilbane, J., concur.

*Judge Larry A. Jones, Sr., concurred in this Journal Entry and Opinion prior to his death on October 7, 2021.

(The Ohio Constitution requires the concurrence of at least two judges when rendering a decision of a court of appeals. Therefore, this announcement of decision is in compliance with constitutional requirements.) See *State v. Pembaur*, 69 Ohio St.2d 110, 430 N.E.2d 1331 (1982).

KEY WORDS: *Divorce; R.C. 3105.171(C)(1)/equitable division of marital property; R.C. 3119.30/availability of health insurance; R.C. 3119.29(F)/health insurance/reasonable cost; R.C. 3119.302(A)(2)(b)/required findings to impose an in excess of reasonable health insurance costs order; income calculation; child support.*

Appellant failed to provide documentation of the value for the property in question; appellant's testimony did not suffice as a public record or report under Evid.R. 803 and was therefore hearsay. The trial court's use of the fair-market value method to determine the property value of the property awarded to appellant was reasonable. The trial court's division of the marital properties was not an abuse of discretion.

The cost of the health insurance exceeded the amount considered reasonable under the statute. The trial court failed to make the required findings under R.C. 3119.302(A)(2)(b) prior to imposing the trial court's order.

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(Case 110259 continued)

There was not error where the trial court calculated inclusion of income for appellant where it was shown that appellant could continue to generate income above appellant's base salary.

110276 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
ALLISON M. COMBEN v STATE FARM MUTUAL AUTOMOBILE INSURANCE CO., ET AL.

Dismissed.

Frank D. Celebrezze, Jr., P.J., Eileen A. Gallagher, J., and Michelle J. Sheehan, J., concur.

KEY WORDS: Motion to dismiss appeal; final appealable order; R.C. 2505.02(B)(1); appellate jurisdiction; denial of motion to intervene; substantial right; statute of limitations; may be litigated in another action; determines the action and prevents a judgment; collateral estoppel.

Because appellant's claims could have been litigated in another action, the denial of its motion to intervene did not affect a substantial right that determined the action or prevented it from obtaining a judgment and was therefore not a final, appealable order under R.C. 2505.02(B)(1).

110291 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
125TH & ST. CLAIR STREET CO., LLC v BERNARD ADAMS, ET AL.

Affirmed.

Michelle J. Sheehan, J., Frank D. Celebrezze, Jr., P.J., and Eileen A. Gallagher, J., concur.

KEY WORDS: Ground lease; option to purchase; condition precedent; faithful and full performance; manifest weight.

Reviewing the trial court's judgment after a bench trial under a manifest-weight standard, we find there is competent, credible evidence to support the trial court's judgment finding the tenant has faithfully and fully performed its lease obligations over the course of 21 years and was entitled to exercise the option to purchase.

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110294 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v TAIWAN BATISTE

Affirmed.

Mary J. Boyle, A.J., Michelle J. Sheehan, J., and Eileen T. Gallagher, J., concur.

KEY WORDS: *Keywords: Purposes and principles of felony sentencing; R.C. 2929.11; seriousness and recidivism factors; R.C. 2929.12; robbery; R.C. 2911.02(A)(1); abduction; R.C. 2905.02(A)(2); theft; R.C. 2913.02(A)(1).*

We affirm the trial court's imposition of maximum, concurrent sentences for robbery, abduction, and theft.

110301 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v TORREZ T. DAVIS

Affirmed.

Mary J. Boyle, A.J., Kathleen Ann Keough, J., and Eileen T. Gallagher, J., concur.

KEY WORDS: *Crim.R. 32.1; postsentence motion; manifest injustice; Crim.R. 11; self-defense; effective assistance of counsel; prejudice.*

Trial court did not abuse its discretion in denying defendant's Crim.R. 32.1 postsentence motion to withdraw his guilty plea without a hearing because affidavits attached to the motion failed to demonstrate that defendant had a viable self-defense claim; that counsel failed to advise defendant of the self-defense claim; or that counsel's alleged failure prejudiced defendant or invalidated his plea under Crim.R. 11.

110356 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v WILLIAM K. ROBERSON

Affirmed.

Kathleen Ann Keough, J., Frank D. Celebrezze, Jr., P.J., and Eileen A. Gallagher, J., concur.

KEY WORDS: *Community-based correctional facility; resentence; prison term; due process; double jeopardy; executed; R.C. 2929.11; R.C. 2929.12.*

Trial court did not violate the defendant's due process rights or implicate the constitutional right against double jeopardy when it

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(Case 110356 continued)

resentenced him to a prison term after initially sentencing him to a community-based correctional facility. Because defendant had not been transported to the community-based correctional facility, execution of the sentence had not yet commenced; thus, the judgment was not final and the trial court retained authority to resentence the defendant. The trial court properly considered the statutory factors of R.C. 2929.11 and 2929.12 when it sentenced defendant to prison.

110497 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
JANE ROE AND JANE DOE v DEAN BOLAND

Affirmed.

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

KEY WORDS: *R.C. 2329.02/certificate of judgment lien; garnished funds; personal jurisdiction.*

Appellant's argument that the federal district court did not have personal jurisdiction over appellees is misplaced. Personal jurisdiction applies to defendants. In this case, the appellees are the plaintiffs.

At the trial-court level, appellant failed to raise the issue of what names appellees proceeded forth with in the case. That issue is therefore moot before this court.

110701 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
MARION R. SHIELDS v KELLY SERVICES, INC., ET AL.

Affirmed.

Eileen A. Gallagher, J., Frank D. Celebrezze, Jr., P.J., and Kathleen Ann Keough, J., concur.

KEY WORDS: *Unemployment compensation; R.C. 4141.29; temporary work agency.*

Appellant terminated her employment with the defendant temporary work agency because she had found more desirable employment with a different temporary work agency. The agency denied appellant's claim for unemployment compensation and the court of common pleas affirmed. The court of appeals affirmed holding that the court of common pleas applied the correct law and found that the determination of the agency that appellant quit her position without just cause was not against the manifest weight of the evidence.