

October 21, 2021**109536** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
R. GIBSON PROPERTIES, LLC v GENMONCHA, LLC, ET AL.

Affirmed.

Frank D. Celebrezze, Jr., P.J., Larry A. Jones, Sr., J.,* and Lisa B. Forbes, 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: Breach of settlement agreement; motion to enforce settlement agreement; vacate dismissal; Civ.R. 60(B); jurisdiction retained by court over settlement.

The trial court acted within its properly retained jurisdiction in determining that the settlement agreement was unenforceable and refusing to vacate the dismissal. Returning the parties to their original positions simply because the settlement agreement could not be enforced was not warranted, particularly where the party seeking reinstatement of the claims was the party who breached the agreement.

110056 JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE
IN RE: N. J. K.

Affirmed.

Emanuella D. Groves, J., Lisa B. Forbes, P.J., and Eileen T. Gallagher, J., concur.

KEY WORDS: Motion to dismiss; motion to modify child support order; administrative support order; jurisdiction; venue; administrative child support order, Ohio Adm.Code 5101:12-10-03; motion to adopt.

Our standard of review on a motion to dismiss is de novo. "Jurisdiction" is defined as a court's statutory or constitutional power to adjudicate a case. The term encompasses jurisdiction over the subject matter and over the person. It is a "condition precedent to the court's ability to hear the case. If a court acts without jurisdiction, then any proclamation by that court is void."

Jurisdiction and venue are distinct legal concepts. Venue is a "procedural matter," and it refers not to the power to hear a case

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but to the geographic location where a given case should be heard.

In this matter, Mother argues that Father's "Application to Determine Custody," filed in the Cuyahoga County Juvenile Court on August 1, 2011, invoked that court's jurisdiction to modify the Medina County administrative child support order.

However, because the child support order, at issue, is an administrative child support order, Ohio Adm.Code 5101:12-10-03, Subsection (E)(2)(a), provides that the issuing county CSEA retains administrative responsibility even when, as in this instance, the party or applicant for services moves to another county.

Because the issuing county CSEA (Medina) retains administrative responsibility for the child support order, from issuance through post termination, then the juvenile court (Cuyahoga) would have to first adopt the order to obtain jurisdiction to hear and decide the case.

However, Mother failed to request that the Cuyahoga County Juvenile Court adopt the Medina County administrative child support order. As such, the Cuyahoga County Juvenile Court was without jurisdiction to hear and decide the case and, consequently, did not err when it granted the motion to dismiss.

110183 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
MONTEFIORE HOME v FAYE FIELDS

Affirmed.

Sean C. Gallagher, P.J., and Frank D. Celebrezze, Jr., J., concur; Eileen T. Gallagher, J., concurs in part and dissents in part with separate opinion.

KEY WORDS: *Fraudulent transfer; R.C. 1337.092(B); answer; Civ.R. 8; Civ.R. 8(F); liberally; R.C. 1336.04; R.C. 1336.05; R.C. 1336.01(L); R.C. 1336.06(A)(1)(b); R.C. 1336.02; R.C. 1336.08(A); R.C. 1336.08(B)(1); manifest weight; fraudulent intent; facts and circumstances; burden; inferences; proof, bona fides, rebut; attorney in fact; power of attorney.*

Affirmed judgment in favor of defendant-appellee on claims for promissory estoppel, fraudulent transfer, and a statutory claim under R.C. 1337.092(B). Defendant-appellee's answer was liberally construed to comply with Civ.R. 8 and constituted a denial to the averments underlying the claims for relief. The judgment of the trial court was not against the manifest weight of the evidence. The ultimate burden of proof in a fraud case rests on the party asserting fraud; the trial court did not impose any improper burden and commented upon the proof and testimony demonstrating the bona fides of the withdrawals and transfers and rebutting any inference of a fraudulent transfer. Plaintiff-appellant failed to ultimately prove its claim of fraudulent transfer under either R.C. 1336.04 and 1336.05 in view of the facts and circumstances of the case, or to prove its claim under R.C. 1337.092(B).

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110195 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v MYRON WEEKS, JR.

110196 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v MYRON WEEKS, JR.

Vacated and remanded.

Frank D. Celebrezze, Jr., J., Sean C. Gallagher, P.J., and Emanuella D. Groves, J., concur.

KEY WORDS: *Community control; termination of community control; R.C. 2929.15; R.C. 309.08(A); notice; abuse of discretion.*

The trial court abused its discretion in terminating appellee's community control sanctions sua sponte without providing appellant with notice or an opportunity to be heard prior to termination.

110248 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
BANK OF NEW YORK MELLON v DORIS M. FLOYD, ET AL.

Affirmed.

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).)

110310 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v ANTHONY CHRISTIAN

Affirmed.

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

KEY WORDS: *Manifest weight of the evidence; ineffective assistance of counsel; consecutive sentences; self-defense.*

Appellant appealed his conviction and sentence for possessing a firearm while under a disability. Appellant could not show any prejudice from the alleged deficiencies of trial counsel. Appellant stated he had possession of a firearm and the video produced by the state showed him bringing the weapon to the scene of the

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shooting. Accordingly, appellant's conviction was not against the manifest weight of the evidence. Finally, appellant could not show that the trial court erred in determining that having weapons under a disability was his most serious offense and so did not show that the trial court erred in imposing consecutive sentences.