

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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September 9, 2021

109427 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v JAMAICA COMPTON

Affirmed.

Eileen T. Gallagher, J., Mary J. Boyle, A.J., and Mary Eileen Kilbane, J., concur.

KEY WORDS: *Plea; agreement; term; forfeiture; money; drug trafficking; waiver; statutory; excessive; fine; manifest weight; evidence; burden; proof.*

Because defendant's forfeiture to the cash was ancillary to the plea agreement and not R.C. Chapter 2981, she had no basis to challenge the court's failure to adhere to the statutory provisions for forfeiture. The trial court's determination that the monies seized from defendant did not derive from a legitimate source was not against the manifest weight of the evidence. The record reflects that the trial court performed an analysis that included a determination as to whether the forfeiture was grossly disproportionate.

109678 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v DAVID WAGNER

Affirmed.

Emanuella D. Groves, J., Larry A. Jones, Sr., P.J., and Kathleen Ann Keough, J., concur.

KEY WORDS: *Consecutive sentences, R.C. 2929.14(C)(4); R.C. 2953.08(G)(2).*

Trial court properly imposed consecutive sentences after thorough review of case under applicable statutes. Trial court is not required to quote verbatim from the statute. Sentence will be upheld if reviewing court can discern that trial court applied appropriate standard and if facts in the record support the trial court's ruling.

109684 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v MEREDITH LOWELL

109685 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v MEREDITH LOWELL

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Reversed.

Emanuella D. Groves, J., Kathleen Ann Keough, P.J., and Eileen A. Gallagher, J., concur.

KEY WORDS: *Not guilty by reason of insanity, consecutive commitments, R.C. 2945.40, R.C. 2945.401(J)(1)(b).*

Trial court erred in running civil commitments consecutively under R.C. 2945.401(J) where the plain language of the statute does not provide for consecutive civil commitments. R.C. 2945.401(J) defines the length of the trial court's jurisdiction not the term of the insanity acquittee's commitment. An insanity acquittee's commitment is solely defined by whether they remain a mentally ill person subject to court order as defined in R.C. 5122.01(B). Further, R.C. 2929.14(C)(4) has no application in the civil commitment context.

109963	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v FLOYD SMITH			

Affirmed.

Eileen T. Gallagher, J., Eileen A. Gallagher, P.J., and Emanuella D. Groves, J., concur.

KEY WORDS: *Nunc pro tunc; clerical error; jurisdiction; postrelease control; violation; discretion; consecutive; plea; guilty; direct appeal; res judicata; contrary to law.*

Under the authority of Crim.R. 36, the trial courts properly exercised its continuing jurisdiction to correct a clerical error in its sentencing journal entry with a nunc pro tunc entry to reflect what the court actually decided. The defendant's arguments concerning his sentence and the state's compliance with the negotiated terms of the plea agreement are barred by res judicata.

110250	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v ERIC LASHLEY			

Affirmed.

Michelle J. Sheehan, J., Larry A. Jones, Sr., P.J., and Kathleen Ann Keough, J., concur.

KEY WORDS: *Sentencing; consecutive sentences; R.C. 2929.14(C)(4).*

The record supported the imposition of an aggregate six-year sentence for appellant's offenses of sexual battery and burglary where the trial court considered statutory sentencing factors. Further, the record supported the trial court's findings in imposing consecutive sentences that appellant's offenses were part of one

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or more courses of conduct and the harm caused was so great or unusual that a single prison term could not adequately reflect the seriousness of his conduct.

110393 JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE
IN RE DA.J., ET AL.

Affirmed.

Lisa B. Forbes, J., Frank D. Celebrezze, Jr., P.J., and Michelle J. Sheehan, J., concur.

KEY WORDS: Termination of parental rights; permanent custody; R.C. 2151.414; best interest of the children; clear and convincing evidence.

The court's termination of Mother's parental rights and award of permanent custody to the agency was supported by clear and convincing evidence in the record. Mother did not comply with her case plan created by the agency. Evidence presented at the hearing supported the court's findings that Mother had not addressed her substance-abuse issues, could not provide adequate permanent housing for the children, and failed to remedy the issues that led to the children being removed from their home.

110410 JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE
IN RE I.R.

Affirmed.

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

KEY WORDS: Complaint for permanent custody; R.C. 2151.353(A)(4); determination that child cannot be placed with parent within a reasonable time or should not be placed with parent; R.C. 2151.414(E)(1), (4); clear and convincing evidence; ineffective assistance of counsel; investigative notes; failure to investigate.

Juvenile court did not err in awarding permanent custody to agency. Competent, credible, clear and convincing evidence supported the juvenile court's findings that the agency made reasonable efforts to make it possible for child to return to father's custody, that notwithstanding reasonable case planning and diligent efforts by the agency to assist father to remedy the problems that caused child to be placed outside the home, father had failed continuously and repeatedly to substantially remedy the conditions causing child to be placed outside the home and that father had demonstrated a lack of commitment toward the child - supporting its determination that child could not be placed with

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father within a reasonable time or should not be placed with father under R.C. 2151.414(E)(1), (4).

Father did not challenge juvenile court's finding that permanent custody was in the best interest of the child. Father was not denied effective assistance of counsel. Trial counsel's failure to file a motion to compel the production of social worker's investigative notes and failure to investigate potential witnesses who could support father's version of events related to the juvenile court's adjudication of child as an abused and dependent child, which father did not appeal, not to its decision on permanent custody. Further, even if trial counsel were in some way deficient, father had not shown that, but for counsel's errors, the outcome would have been different.