

## CASE DECISION LIST

**September 30, 2021**

**109609** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v DEANTAIE BARNES

**109610** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v DEANTAIE BARNES

Reversed and remanded.

Anita Laster Mays, P.J., Mary Eileen Kilbane, J., and Eileen T. Gallagher, J., concur.

**KEY WORDS:** *R.C. 2945.37(B); competence to stand trial; hearing; R.C. 2945.371; evaluation of defendant's mental condition at relevant time; sanity at the time of the act.*

*Appellant's convictions are reversed and remanded. Appellant requested a psychiatric examination prior to trial relating to competence to stand trial, sanity at the time of the act, and qualification for the mental health docket. The record does not support that the report was filed, a hearing conducted, or that stipulations to competence were entered in the record. The statute is clear that the court "shall" hold a hearing when the defendant's competence to stand trial is raised before trial begins. R.C. 2945.37(B). The error was not harmless. The defendant did not testify in his own defense, was not subject to cross-examination, and the record reveals sufficient indicia of incompetence to require a hearing.*

**109898** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
JOHN WALWORTH v JUDY KHOURY

Affirmed.

Lisa B. Forbes, J., Eileen A. Gallagher, P.J., and Mary Eileen Kilbane, J., concur.

**KEY WORDS:** *Summary judgment; Civ.R. 56(C) evidence; negligence; premises liability; open and obvious danger; attendant circumstances.*

*Trial court properly granted summary judgment to the defendant. Plaintiff failed to establish a negligence claim based on him tripping over his fiancée's shoes that she left near the top of the stairs.*

## CASE DECISION LIST

**110088** CLEVELAND MUNI. C CRIMINAL MUNI. & CITY  
CITY OF CLEVELAND v JOHN P. CORNELY

Reversed and remanded.

Lisa B. Forbes, J., Mary J. Boyle, A.J., and Anita Laster Mays, J., concur.

**KEY WORDS:** *Community-control sanctions; violation; R.C. 2929.25(D)(1); motion to show cause; contempt; abuse of discretion.*

*The trial court erred in holding a community-control violation hearing on appellant's wife's motion to show cause, because she was not one of the specified people under R.C. 2929.25(D)(1). Further, the court's finding that appellant violated his community-control sanctions when he contacted his wife in violation of the court's no-contact order was arbitrary and unreasonable. Appellant's counsel sent a notice to appellant's wife's counsel, which was an approved manner of communication. Accordingly, the trial court abused its discretion in finding that appellant violated his community-control sanctions.*

**110132** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
STATE OF OHIO v A.G.

Reversed and remanded.

Anita Laster Mays, J., Mary J. Boyle, A.J., Lisa B. Forbes, J., concur.

**KEY WORDS:** *R.C. 2953.31; eligible offender; offense of violence.*

*The trial court erred in determining that the appellee was an eligible offender under R.C. 2953.31(a)(1), where the appellee was statutorily barred from being designated as an eligible offender. The appellee had been convicted of an offense of violence that bars the appellee from sealing their record of convictions.*

**110158** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
MARCIA WYNNE DEERING v WILLIAM BEATTY, ET AL.

Vacated and remanded.

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

**KEY WORDS:** *Motion to compel; discovery; medical records; in camera inspection; reversible error.*

*Where the medical records were extensive and of a sensitive*

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(Case 110158 continued)

**nature, it was error where the trial court failed to order an in camera inspection to determine which medical records were relevant.**

**110188** CLEVELAND MUNI. C CRIMINAL MUNI. & CITY  
CITY OF CLEVELAND v ANTHONY TARULLI

Reversed and remanded.

Mary Eileen Kilbane, P.J., Lisa B. Forbes, J., and Emanuella D. Groves, J., concur.

**KEY WORDS:** *Selective diversion program; SIP; completion of program; R.C. 2981.04, R.C. 2981.02; forfeiture; strictly construed; failure to comply with statutory requirements; forfeiture specification; proper notice.*

*Because forfeiture was not a term of defendant's participation in the court's SIP, the trial court erred in denying in part defendant's motion for return of his firearm because the city failed to comply with the statutory requirement to provide notice of the forfeiture claim.*

**110409** JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE  
IN RE A.B.

Affirmed.

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

**KEY WORDS:** *Permanent custody; R.C. 2151.414, manifest weight of evidence; best interest of the child; consideration of placement with family members.*

*The juvenile court's decision granting permanent custody of the child to the agency is affirmed. The trial court considered all factors in R.C. 2151.414 to determine the best interests of the child and the decision to award permanent custody was supported by competent, credible evidence. The decision was not against the manifest weight of the evidence where the record demonstrated that the court considered placement with relatives in assessing the best interests of the child but found such placement not to be suitable.*