

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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February 17, 2022

109315 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v BRADLEY DELVALLIE

Affirmed.

Decision En Banc:

Sean C. Gallagher, A.J.; Frank D. Celebrezze, Jr., and Cornelius J. O'Sullivan, Jr., JJ., concur;

Eileen A. Gallagher, Kathleen Ann Keough, and Michelle J. Sheehan, JJ., concur with sections II. and V. of the majority opinion and concur in judgment only with the remainder;

Mary J. Boyle, J., concurs in judgment only (with separate opinion);

Lisa B. Forbes, J., dissents (with separate opinion); Eileen T. Gallagher, Emanuella D. Groves, Mary Eileen Kilbane, and Anita Laster Mays, JJ., concur;

Anita Laster Mays, J., dissents in part and concurs in part (with separate opinion); Emanuella D. Groves and Mary Eileen Kilbane, JJ., concur.

KEY WORDS: *Reagan Tokes Law; R.C. 2901.011; S.B. 201; R.C. 2929.144; R.C. 2929.14; R.C. 2967.271; due process; separation of powers; indefinite nonlife sentence; qualifying felony offense.*

The defendants in this en banc proceeding have not demonstrated beyond a reasonable doubt that the Reagan Tokes Law, as defined under R.C. 2901.011, is unconstitutional based on the separation-of-powers doctrine violations of due process rights, or the failure of R.C. 2967.271 to provide the full panoply of trial and pretrial rights, and the challenges are therefore overruled.

110473 EUCLID MUNI. C CRIMINAL MUNI. & CITY
CITY OF EUCLID v ASHAUGHNTA STAR HEDGE

Vacated and remanded.

Mary J. Boyle, J.; Eileen T. Gallagher, J., concurs in judgment only; Sean C. Gallagher, A.J., dissents (with separate opinion).

KEY WORDS: *Petty offense; right to counsel; invalid waiver; remedy; vacate conviction.*

Appellant charged with first-degree misdemeanor did not knowingly, intelligently, and voluntarily waive her right to counsel when the municipal court did not advise appellant of the dangers and disadvantages of self-representation, possible defenses, or any mitigating circumstances and made no inquiry into whether appellant was equipped to proceed with self-representation. The Supreme Court of Ohio resolves a split within the Eighth District that the appropriate remedy absent a valid waiver in petty offense

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(Case 110473 continued)

cases is to vacate the conviction, not just the sentence of confinement and community-control sanction.

110561 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v DONALD EDWARDS

Affirmed.

Mary J. Boyle, J., Frank D. Celebrezze, Jr., P.J., and Lisa B. Forbes, J., concur.

KEY WORDS: *Domestic violence; guilty plea; Crim.R. 11; standard of review; State v. Dangler, 162 Ohio St.3d 1, 2020-Ohio-2765, 164 N.E.3d 286; mandatory penalty; nonconstitutional right; substantial compliance; sentence; R.C. 2953.08(G); R.C. 2929.11 and 2929.12.*

Judgment affirmed. The trial court complied with Crim.R. 11(C)(2) when it advised appellant that “there would be no reduction” in the imposition of his postrelease control. The Ohio Supreme Court recently clarified the review standard on appeal regarding compliance with Crim.R. 11. Appellate inquiry no longer focuses on strict, substantial, or partial compliance with the rule. Rather, the questions to be answered are as follows: “(1) has the trial court complied with the relevant provision of the rule? (2) if the court has not complied fully with the rule, is the purported failure of a type that excuses a defendant from the burden of demonstrating prejudice? and (3) if a showing of prejudice is required, has the defendant met that burden?” In addition, appellant’s 36-month maximum sentence for domestic violence is not contrary to law when the sentence was within the range for the offense and the trial court considered the factors and principles in R.C. 2929.11 and 2929.12.

110569 JUVENILE COURT DIVISION F CIVIL C.P.-JUV, DOM, PROBATE
IN RE: K.M.P.

Vacated in part and affirmed in part.

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

KEY WORDS: *Juvenile court; CCDCFS; ODYS; delinquent; legal custody; competing orders.*

The juvenile court erred in granting emergency temporary custody of a juvenile to the Cuyahoga County Division of Children and Family Services after finding the juvenile delinquent and committing him to the custody of the Ohio Department of Youth Services because the court lacked the statutory authority to issue contemporaneous custody orders to two different entities.

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110577 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v DAMON D. POAGE

Affirmed.

Mary Eileen Kilbane, P.J., Emanuella D. Groves, J., and Mary J. Boyle, J., concur.

KEY WORDS: *Guilty plea; Crim.R. 11; nonconstitutional rights; knowing, intelligent, and voluntary; maximum potential penalty; consecutive sentence.*

Appellant's guilty plea was knowing, intelligent, and voluntary because the trial court fully complied with the nonconstitutional requirements of Crim.R. 11(C) by informing appellant of the maximum penalties he faced for each of the counts to which he was pleading guilty.

110678 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
RONEE GISSANTANER, ET AL. v BUCKEYE SAUCE CORPORATION, ET AL.

Affirmed.

Cornelius J. O'Sullivan, Jr., J.; Eileen A. Gallagher, P.J., concurs; Eileen T. Gallagher, J., concurs in judgment only (with separate attached opinion).

KEY WORDS: *Interlocutory appeal; summary judgment; closely held corporation; insurance proceeds; standing; Buy-sell Agreement; interpleader; contract interpretation; motion to appoint receiver; lack of final appealable order; R.C. 2505.02.*

The appellants have standing as minority shareholders to assert a breach of contract but the trial court did not err in denying appellants' motion for summary judgment.

The trial court properly ordered the proceeds of the deceased's life insurance policy to be paid to the estate because there was no evidence that the conditions precedent had not been met.

Appellants failed to show a breach of contract; there is no evidence that the corporation's failure to make two payments on one shareholder's life insurance policy constituted a breach of contract by another shareholder.

The denial of appellants' motion to appoint a receiver is not a final appealable order under the facts of this case because it does not affect a substantial right or deny a provisional remedy.