

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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October 19, 2023

111921 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v DEANDRE PRICE

Affirmed.

Lisa B. Forbes, J., Michelle J. Sheehan, P.J., and Mary J. Boyle, J., concur.

KEY WORDS: *Admission of evidence; Evid.R. 705 and 703; expert-witness testimony must be based on facts in evidence; Evid.R. 702(C); expert-witness testimony must be based on reliable scientific, technical, or other specialized information; manifest weight of the evidence.*

Because there was evidence presented at trial that stains from the defendant's car's floor mats contained blood, it was proper for expert witnesses to testify about blood on the floor mats. Expert-witness testimony regarding hypotheticals was based on reasonable degree of scientific certainty. Defendant's convictions for murder and associated offenses were not against the manifest weight of the evidence. Defendant's convictions are affirmed.

112191 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v ISAIAH CRAWFORD

Dismissed and remanded.

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

KEY WORDS: *Motion for leave to withdraw as counsel; Anders brief; Crim.R. 11(C); knowing, intelligent, and voluntary guilty pleas; appeal dismissed.*

Appointed counsel's motion for leave to withdraw granted and appeal dismissed where, following an independent review of the record in accordance with the procedure set forth in Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), the record reflects that trial court complied with Crim.R. 11(C) and that defendant entered knowing, intelligent, and voluntary guilty pleas, such that there were no arguably meritorious grounds for appeal.

112287 CLEVELAND MUNI. C Criminal Muni. & City
CITY OF CLEVELAND v LONNIE MCCOY

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Reversed and remanded.

Kathleen Ann Keough, P.J., and Eileen A. Gallagher, J., concur; Michelle J. Sheehan, J., concurs in judgment only (with separate opinion).

KEY WORDS: *Aggravated menacing; serious physical harm; manifest weight of the evidence; closing argument.*

Trial court erred in failing to afford defendant an opportunity to present closing arguments when the evidence was against the manifest weight of the evidence to support the defendant's conviction for aggravated menacing.

112376	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v JOSEPH KLIMCZYK			

Affirmed and remanded.

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

KEY WORDS: *Restitution; plain error; R.C. 2929.18(A)(1); Reagan Tokes Law; constitutional; due process; separation-of-powers doctrine; jury trial.*

The trial court did not commit plain error in awarding restitution to the victims. Defendant's substantial rights were not violated and a manifest injustice did not occur because evidence was presented at the sentencing hearing through the PSI, victim-impact statement, request of the state, and statement of a victim in open court to support the restitution amount imposed by the trial court. Moreover, the Reagan Tokes Law does not violate the defendant's right to due process, the separation-of-powers doctrine, and his Sixth Amendment right to a jury trial.

112410	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v DARIN BRUSITER			

Affirmed.

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

KEY WORDS: *Postsentence motion to withdraw guilty plea; abuse of discretion; Crim.R. 32.1; res judicata.*

The court did not abuse its discretion by denying defendant's second motion post-sentence to withdraw his guilty plea. The instant case is the defendant's fourth appeal and this issue is barred by res judicata.

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112440 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v BRANDON BALDWIN

Affirmed.

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

KEY WORDS: *Rape; complete defense; extrinsic impeachment evidence; Evid.R. 616; mistrial; perjury.*

Affirmed. *The defendant was not deprived a complete defense when precluded from questioning witnesses regarding dated sexual misconduct allegations against a then six-year-old sibling that were unrelated to the rape charges brought against the defendant; the trial court did not abuse its discretion in precluding the defendant from impeaching a witness through extrinsic evidence introduced through a third-party; and the trial court did not err in denying a motion for a mistrial because any allegation of perjury was unrelated to the elements of the crime for which the defendant was found guilty.*

112478 COMMON PLEAS COURT E Civil C.P.-Not Juv, Dom Or Prob
STEVEN ROUSANA v NATIONWIDE GENERAL INSURANCE COMPANY, ET AL.

Affirmed.

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

KEY WORDS: *Summary judgment; uninsured motorist coverage; breach of contract; bad faith; reasonable justification standard; fraud; advertisement; intentional infliction of emotional distress.*

Summary judgment was properly granted to insurer on insured's uninsured-motorist-coverage claim where the undisputed evidence demonstrated that he was struck by an insured motorist.

Insured failed to establish a bad-faith claim against insurer even though insurer made a low settlement offer where the insured was not entitled to any coverage under the policy, and the insurer had a reasonable justification for denying coverage.

Insured failed to establish a fraud claim against insurer where there was no evidence that the insurer knowingly or recklessly made misrepresentations about the insured's coverage in its mass advertisement campaign.

Insured failed to establish a claim for intentional infliction of emotional distress where insurer had a reasonable justification for the denial of insured's claim and there was no evidence that the insurer's conduct was extreme or outrageous.

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112500 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
TAYLIN D. REYNOLDS v CARL J. KAMM, III, ET AL.

Affirmed.

Lisa B. Forbes, P.J., Michael John Ryan, J., and Sean C. Gallagher, J., concur.

KEY WORDS: *Civ.R. 12(B)6 motion to dismiss for failure to state a claim upon which relief can be granted.*

Plaintiff's complaint alleging breach of contract was properly dismissed because plaintiff failed to allege facts that, if believed, established that a contract existed between her and the defendants.

112529 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v JAMES REYES

Vacated and remanded.

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

KEY WORDS: *State's appeal; sentence; plain error; Regan Tokes Law; constitutionality.*

Judgment vacated and remanded. It was plain error for the trial court to sentence the defendant to a definite sentence when he was subject to an indefinite sentence under the Reagan Tokes Law. Accordingly, the defendant's three-year prison sentence is vacated, and the matter is remanded to the trial court for resentencing in accordance with the Reagan Tokes Law.

112674 BEREA MUNI. G Civil Muni. & City
DAVID J. WARD, ET AL. v ANITA CHORICH

Affirmed.

Frank Daniel Celebrezze, III, P.J., Michael John Ryan, J., and Sean C. Gallagher, J., concur.

KEY WORDS: *Forcible entry and detainer; eviction; review of magistrate's decision; objections to magistrate's decision; R.C. 1923.07; service of summons; notice of hearing; R.C. 1923.06(G)(1).*

Judgment affirmed. The trial court did not abuse its discretion in overruling tenant's objections and adopting the magistrate's decision where the record demonstrated that tenant was properly served with the complaint in forcible entry and detainer and the notice of the rescheduled hearing.