

## CASE DECISION LIST

Court of Appeals, Eighth Appellate District

Page: 1 of 6

**August 15, 2024**

**112764** CLEVELAND MUNI. C Criminal Muni. & City  
CITY OF CLEVELAND v AUTUMN WILLIAMS

Affirmed.

Lisa B. Forbes, J., Kathleen Ann Keough, A.J., and Michelle J. Sheehan, J., concur.

**KEY WORDS:** *Sufficiency; manifest weight; eyewitness identification; Cleveland Cod.Ord. 623.041 and 621.07; aggravated trespass; menacing.*

*Appellant's convictions for aggregated trespass and menacing in two cases were supported by sufficient evidence and not against the manifest weight of the evidence where an eyewitness identified appellant as the person seen fleeing from the front of a house immediately after the sound of breaking glass.*

**112989** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
THOMAS F. O'MALLEY, IN HIS OFFICIAL CAPACITY v  
LABORERS' INT'L. UNION OF NORTH AMERICA, LOCAL 860

Reversed and remanded.

Emanuella D. Groves, P.J., and Mary Jane Trapp, J., \* concur; Sean C. Gallagher, J., dissents (with separate opinion).

\*(Sitting by assignment: Judge Mary Jane Trapp of the Eleventh District Court of Appeals.)

**KEY WORDS:** *R.C. 2711.03; arbitration; duty to arbitrate; contract; interpretation.*

*Trial court erred when it failed to grant appellant's petition to arbitrate where the record established that the parties were disputing the interpretation of terms in the collective bargaining agreement and the parties had assigned interpretation disputes to the arbitrator.*

**113028** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
TIMOTHY WOOD, ET AL. v CASHELMARA CONDO.UNIT OWNERS' ASSOC., INC., ET AL.

Affirmed.

Mary J. Boyle, J., Michelle J. Sheehan, P.J., and Anita Laster Mays, J., concur.

## CASE DECISION LIST

(Case 113028 continued)

**KEY WORDS:** Motion to enforce settlement agreement; oral agreement.

**Judgment affirmed. This court finds that the trial court intended to enforce the Oral Agreement only because the trial court attached to its journal entry the transcript of the Oral Agreement and none of the written proposals. Further, the trial court did not err in granting the Woods' motion to enforce the settlement.**

**113121** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
MAYFIELD AUTO GROUP, LLC v JS MAYFIELD PARTNERS, LLC, ET AL.

**113122** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
6180 THROUGH 6200 MAYFIELD ROAD, LLC v JS MAYFIELD PARTNERS, LLC, ET AL.

Affirmed.

Anita Laster Mays, J., Kathleen Ann Keough, A.J., and Michelle J. Sheehan, J., concur.

**KEY WORDS:** Arbitration; R.C. 2711.01(B)(1).

***The trial court did not err in staying this matter pending arbitration because the parties agreed to arbitration in their lease agreement. R.C. 2711.01(B)(1) does not apply because it is not a controversy involving the title to or the possession of real estate.***

**113151** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v MYRON JOHNSON

Affirmed.

Anita Laster Mays, J., Mary Eileen Killbane, P.J., and Mary J. Boyle, J., concur.

**KEY WORDS:** Sentence contrary to law; R.C. 2929.11; R.C. 2929.12; indefinite sentences.

***The trial court did not impose a sentence on the appellant that was contrary to law. The trial court properly considered the sentencing factors in R.C. 2929.11 and 2929.12, and correctly imposed an indefinite sentence.***

**113347** JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate  
IN RE: L.A.

## CASE DECISION LIST

**113676** JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate  
IN RE: L.A.

Reversed and remanded.

Emanuella D. Groves, J., Kathleen Ann Keough, A.J., and Frank Daniel Celebrezze, III, J., concur.

**KEY WORDS:** *R.C. 2152.18(B); confinement credit.*

*Where juvenile spent time in a rehabilitation center prior to commitment to the department of youth services, he was entitled to a hearing to determine whether the placement was in connection with his delinquency complaints and whether his time in the rehabilitation center met the requirements of confinement to entitle him to confinement credit.*

**113359** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v ROBERT JOHNSON

Affirmed.

Michelle J. Sheehan, P.J., Eileen T. Gallagher, J., and Frank Daniel Celebrezze, III, J., concur.

**KEY WORDS:** *Rape, attempted rape, importuning, sufficiency of evidence, manifest weight of evidence, credibility, hearsay, police report, department of children and family services log, sexually violent predator.*

*Defendant's convictions for attempted rape, rape, and importuning were based on sufficient evidence because the victims testified to the elements of each offense committed and convictions were not against the manifest weight of the evidence where the victims' testimony was not wholly incredible and aspects of their testimony was corroborated by other evidence. The trial court did not abuse its discretion by not allowing Johnson to introduce the police report and a Department of Children and Family Services activity log where the report did not fall under a hearsay exception and defendant did not show the statements within the report satisfied an exception to the hearsay rule. Finally, the trial court could find defendant to be a sexually violent predator where he was convicted in the past of the rape of three of his daughters who were of a similar age to the victims, his granddaughters, in the present case.*

**113397** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
L.W. v A.B.

## CASE DECISION LIST

Affirmed.

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

**KEY WORDS:** *Expungement; motion to seal.*

**The trial court did not err in sua sponte vacating its expungement entry because it did not issue a journal issue reflecting its original decision granting the appellant's expungement.**

**113405** COMMON PLEAS COURT E Civil C.P.-Not Juv, Dom Or Prob  
STATE OF OHIO v KENDLE CONNER

Affirmed.

Kathleen Ann Keough, A.J., Emanuella D. Groves, J., and Frank Daniel Celebrezze, III, J., concur.

**KEY WORDS:** *Reagan Tokes Law; voidable sentence; challenge on direct appeal; res judicata.*

**Where the trial court did not sentence the defendant in compliance with the Reagan Tokes Law, the trial court did not err in denying defendant's motion to vacate the sentence as contrary to law because the sentence was voidable, not void, and thus, the defendant was required to challenge the sentence on direct appeal. Because he did not do so, the doctrine of res judicata barred his claim.**

**113446** JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate  
IN RE: M.T.

Affirmed.

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

**KEY WORDS:** *Permanent custody; R.C. 2151.414(B)(1); R.C. 2151.414(E)(1), (4); best interest of child; R.C. 2151.414(D)(1); sufficiency of the evidence; clear and convincing evidence; manifest weight of the evidence; engagement with case plan services.*

**Juvenile court's findings under R.C. 2151.414(B)(1), (E)(1) and (4) that child could not be placed with his mother within a reasonable time or should not be placed with his mother and that permanent custody was in the best interest of the child were supported by clear and convincing evidence and were not against the manifest weight of the evidence. Mother's engagement with case plan services did not preclude a grant of permanent custody to the agency where, after receiving ample services, Mother was not at a place where she could independently parent her child and consistently meet his basic needs, including providing a safe and**

## CASE DECISION LIST

(Case 113446 continued)

**secure, permanent home for him, and there is no indication in the record that she would be able to do so at any reasonable time in the future.**

**113509** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v JERMAINE DIGGS

Affirmed.

Michelle J. Sheehan, P.J., Anita Laster Mays, J., and Frank Daniel Celebrezze, III, J., concur.

**KEY WORDS: Consecutive sentences; findings; R.C. 2929.14(c); R.C. 2953.08(g); clear and convincing.**

***Defendant was convicted of two felony assault charges and one count of felony vandalism. The trial court imposed a prison sentence for each count and ordered the sentences to run consecutively. The trial court made the required findings pursuant to R.C. 2929.14(C) where it found that consecutive sentences were necessary to protect the public from future crime and punish the defendant, consecutive sentences were not disproportionate to the seriousness of defendant's conduct, that consecutive sentences were not disproportionate to the danger defendant posed to the public, and that defendant's history of criminal conduct demonstrated consecutive sentences were necessary to protect the public from future crime. The appellate court could not say the record clearly and convincingly does not support the imposition of consecutive sentences where defendant caused serious injury to one victim, had 13 prior cases of violence, and had a history of violating probation.***

**113530** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
JOHN DOE 1 v CUYAHOGA COUNTY COMMUNITY COLLEGE, ET AL.

Affirmed.

Michelle J. Sheehan, P.J., Anita Laster Mays, J., and Frank Daniel Celebrezze, III, J., concur.

**KEY WORDS: Reckless conduct; R.C. 2152.421 claim; motion to dismiss; intentional infliction of emotional distress; notice pleading.**

***John Doe, a dance student at Tri-C's Creative Arts Academy, was sexually assaulted by his teacher, who was hired by Tri-C after being terminated by Cleveland School of the Arts due to allegations of improper conduct with the students. John Doe filed a complaint against appellant teachers in Tri-C's Creative Arts Academy for reckless or wanton conduct, a failure to report child abuse in violation of R.C. 2151.421(A)(1)(a), and intentional infliction of emotional distress. Applying Ohio's liberal pleading standard and construing all factual allegations as true and making all reasonable***

## CASE DECISION LIST

(Case 113530 continued)

**inferences in favor of the plaintiff, we are unable to conclude that John Doe's complaint should be dismissed for failure to state a claim upon which relief can be granted and, therefore, we affirm the trial court's judgment denying appellant's motion to dismiss.**

<b>113698</b>	LYNDHURST MUNI.	G	Civil Muni. & City
JONATHAN GURARY v JOHN CARROLL UNIVERSITY			

Affirmed in part, reversed in part and remanded.

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

***KEY WORDS: Accelerated appeal; summary judgment; Civ.R. 56(C); breach of contract; promissory estoppel; fraud; affidavit; salary reduction; untimely payment of wages; R.C. 4113.15(B).***

***Trial court erred in granting summary judgment in favor of university on plaintiff's claim for breach of contract arising out of university's unilateral reduction of contracted salary amount. Trial court did not err in granting summary judgment in favor of university on related promissory estoppel and fraud claims. Existence of an express, written contract between the parties precluded a claim of promissory estoppel, and the trial court correctly determined that no summary judgment evidence was presented that university's statements regarding its financial condition were knowingly false or made with utter disregard and recklessness as to their truth or that plaintiff justifiably relied on any such representations and was injured by that reliance.***