

CASE DECISION LIST

December 19, 2024

113302 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v CHARLES O. WRIGHT, JR.

Affirmed.

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

KEY WORDS: *Manifest weight; Evid.R. 403; ineffective assistance of counsel.*

Appellant's conviction was supported by the greater weight of the evidence where two eyewitnesses identified appellant as the shooter and there was credible evidence presented to support their testimony.

Appellant did not establish he received ineffective assistance of counsel where his counsel failed to object to the introduction of photographs of a homicide victim and where the record did not reflect that, if the objection had been successful, the outcome of the trial would have been different.

113309 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v LAMAR HASKINS

Affirmed.

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

KEY WORDS: *Jury instructions; force; State v. Eskridge, 38 Ohio St.3d 56 (1988); lesser-included offense; abuse of discretion; unlawful sexual conduct with a minor; sexual battery; rape; gross sexual imposition; R.C. 2907.03(A)(5); R.C. 2907.04(A); character evidence; Evid.R. 404(B)(1); mistrial; Crim.R. 29; sufficiency.*

Judgment affirmed. The trial court did not abuse its discretion in instructing the jury. Unlawful sexual conduct with a minor is not a lesser included offense of sexual battery because it includes additional elements. Moreover, we cannot say that the trial court acted unreasonably, arbitrarily, or unconscionably when it provided both the R.C. 2901.01(A)(1) and Eskridge definitions of force in its jury instructions.

Nor can we say that a fair trial was impossible after passing references were made to the defendant's prior incarceration and probation officer. Accordingly, the trial court did not abuse its discretion in its handling of those references.

Finally, we find that the State presented sufficient evidence through witness testimony to establish the element of "force" required to

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commit rape and gross sexual imposition; that the defendant was a “stepparent[] or guardian, custodian, or person in loco parentis” as required to commit sexual battery; and separate charges for both rape and sexual battery.

113313 DOMESTIC RELATIONS F Civil C.P.-Juv, Dom, Probate
EILEEN PATRICIA ANDERSON-FYE v CHRISTOPHER MULLINAX-FYE

Affirmed.

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

KEY WORDS: Divorce; Evid.R. 611; expert witness; expert report; separate property; financial tracing; division of property; motion to show cause; contempt; financial misconduct; distributive award; child tax exemption; temporary support; time limitations; due process; attorney fees; abuse of discretion; custody determination; best interest of the children; marital debts; imputed income.

Our standard of reviewing decisions of a domestic relations court is generally the abuse-of-discretion standard. Upon review, the trial court did not abuse its discretion. The trial court did not err in admitting evidence from an expert witness related to the financial tracing of various claim separate property. The court did not abuse its discretion in its division of marital property and separate property, or in its allocation of marital debts and liabilities. Plaintiff-appellant was not entitled to a distributive award where defendant-appellee did not commit financial misconduct. The allocation of parental rights and responsibilities and the order to alternate the child tax exemption was not an abuse of discretion. Finally, the trial court did not err in imputing income to defendant-appellee.

113671 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v TORRY THOMPSON

Affirmed.

Emanuella D. Groves, J., Michelle J. Sheehan, P.J., and William A. Klatt, J.,* concur.

(*Sitting by assignment: William A. Klatt, J., retired, of the Tenth District Court of Appeals.)

KEY WORDS: Ineffective assistance of counsel; plain error.

Judgment affirmed. Defendant has not demonstrated that he was prejudiced by defense counsel’s alleged failures to (1) secure an expert witness, (2) withdraw from the negotiated plea agreement, and (3) object or clarify the record during the sentencing hearing. Accordingly, we decline to find that he received ineffective assistance of counsel. Defendant further fails to demonstrate that

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he was prejudiced by the trial court's failure to provide Reagan Tokes Law advisements because a Reagan Tokes tail was not imposed to his sentence. Therefore, this is not an exceptional circumstance where a correction of plain error is required to prevent a manifest injustice.

113710 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
MICHAEL SUTTON, ET AL. v STATE OF OHIO

Affirmed.

Sean C. Gallagher, J., Mary J. Boyle, P.J., and Michael John Ryan, J., concur.

KEY WORDS: Wrongfully imprisoned individual; R.C. 2743.48; released; Brady violation.

Affirmed. The trial court did not err in granting the plaintiffs' motions for summary judgment after concluding that both were released from their terms of imprisonment based on an earlier appeal that determined a Brady violation occurred, which resulted in the plaintiffs' convictions being vacated and remanded for a new trial.

113734 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v LAJUAN BEBEE

Affirmed.

William A. Klatt, J.,* Michelle J. Sheehan, P.J., and Emanuella D. Groves, J., concur.

(*Sitting by assignment: William A. Klatt, J., retired, of the Tenth District Court of Appeals.)

KEY WORDS: Manifest weight of the evidence; self-defense; imminent danger of death or great bodily harm; Fifth Amendment; right to remain silent; flight jury instruction; evading the police.

The jury's rejection of defendant-appellant's self-defense claim was not against the manifest weight of the evidence when the evidence shows defendant-appellant did not have a bona fide belief that he was in imminent danger of death or great bodily harm or that his only means of escape from such danger was in the use of force. Where the trial court has no obligation to conduct an inquiry with a defendant-appellant concerning his decision to testify at trial, the trial court's failure to conduct such an inquiry is not erroneous. The trial court did not abuse its discretion when it provided a flight jury instruction where the instruction was applicable to the facts, a correct statement of the law, and reasonable minds could conclude that the defendant-appellant fled from the crime scene.

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113809 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v EDWARD LASTER, JR.

Affirmed.

William A. Klatt, J.,* Eileen T. Gallagher, P.J., and Michael John Ryan, J., concur.

(*Sitting by assignment: William A. Klatt, J., retired, of the Tenth District Court of Appeals.)

KEY WORDS: *Endangering children; R.C. 2919.12(A); recklessly; shower; bath; water temperature; scalding; second-degree burns; sufficiency of the evidence; manifest weight of the evidence; bench trial.*

Appellant's conviction for child endangering was supported by sufficient evidence and was not against the manifest weight of the evidence where the evidence showed that appellant acted recklessly in failing to check the temperature of water before bathing his two-year-old son, resulting in second-degree burns.

113812 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
FRANKIE WILSON v CITY OF CLEVELAND

Reversed.

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

KEY WORDS: *Political subdivision immunity; negligence.*

Trial court erred when it denied the City's motion for summary judgment based on political subdivision immunity where the evidence failed to establish the City's negligence, and thus it was entitled to immunity under R.C. Ch. 2744.

113815 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: T.J.

113903 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: T.J.

Affirmed.

Mary J. Boyle, J., Sean C. Gallagher, J., concurs; Emanuella D. Groves, P.J., dissents (with separate opinion).

KEY WORDS: *Temporary custody; final order; erroneous grant of custody under R.C. 2151.414(B)(1)(d); permanent custody; best interests of child; CCDCFS; R.C. 2151.414; clear and convincing*

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evidence; manifest weight; sufficiency of the evidence.

Judgment affirmed. The juvenile court's order for temporary custody is a final appealable order that should have been appealed 30 days from the date of the journal entry and is untimely. Here, the court erroneously granted permanent custody to CCDCFS on the basis set forth in R.C. 2151.414(B)(1)(d). This error is harmless because CCDCFS did not rely on R.C. 2151.414(B)(1)(d) in its motion for permanent custody. Rather, CCDCFS relied on the condition listed in R.C. 2151.414(B)(1)(a) exists and argued that one or more of the factors listed in R.C. 2151.414(E) apply to the parents of the child at issue. Consistent with CCDCFS's reliance on R.C. 2151.414(B)(1)(a), the juvenile court found under R.C. 2151.414(E) that "the child cannot be placed with one of the child's parents within a reasonable time or should not be placed with either parent," and the juvenile court found multiple factors under R.C. 2151.414(E) were met, including R.C. 2151.414(E)(1) and (E)(4). Sufficiency and manifest weight are distinct legal concepts, a finding that a judgment is supported by the manifest weight of the evidence necessarily includes a finding that sufficient evidence supports the judgment. Here, there is clear and convincing evidence in the record to support the juvenile court's determination that permanent custody to CCDCFS is in the children's best interest. Therefore, the court's decision to grant permanent custody is not against the manifest weight of the evidence.

113825	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v JEFFREY MAYFIELD			

Affirmed and remanded.

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

KEY WORDS: *Venue; guilty plea; Crim.R. 11(C); registration requirements; consecutive sentence; R.C. 2929.14(C)(4).*

Judgment affirmed. *Because Mayfield pleaded guilty, he waived his right to have the State establish venue beyond a reasonable doubt. Moreover, the trial court complied with Crim.R. 11(C)(2) when it advised Mayfield of all the sex offender and sexually oriented offense registration requirements and provided detailed information regarding those requirements. The trial court also made the necessary statutory findings before imposing consecutive sentences and those sentences were not excessive or contrary to law.*

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114024 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v KENNETH WHITE

Reversed and remanded.

Emanuella D. Groves, J., Michelle J. Sheehan, P.J., and Anita Laster Mays, J., concur.

KEY WORDS: *Civil forfeiture; criminal forfeiture; R.C. Ch. 2981; notice.*

Judgment reversed and remanded. Because the prosecutor did not provide notice pursuant to R.C. 2981.04(D), the trial court erred in denying the appellant's petition for a criminal forfeiture hearing pursuant to R.C. 2981.04(E) based on untimeliness.

114070 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: L.V.

Affirmed.

Eileen T. Gallagher, P.J., Mary J. Boyle, J., and Sean C. Gallagher, J., concur.

KEY WORDS: *Permanent custody; best interest of the child; trauma; manifest weight of the evidence; failure to remedy; hearsay; confrontation clause; harmless error.*

Trial court's judgment granting permanent custody of minor child to CCDCFS affirmed where parents failed to remedy the conditions that initially caused removal of the child; the child had been in agency custody for over 12 months of a 22-month period; and permanent custody was in the child's best interest.

Any error in trial court's admission of hearsay evidence was harmless where the evidence was cumulative to evidence provided by other admissible sources.

114085 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: J.C.

Reversed and remanded.

Michael John Ryan, J., Eileen T. Gallagher, P.J., and William A. Klatt, J.,* concur.

(*Sitting by assignment: William A. Klatt, J., retired, of the Tenth District Court of Appeals.)

KEY WORDS: *State's appeal; mandatory bindover proceedings; de novo review; R.C. 2152.12; R.C. 2152.10; category-two offense; firearm specifications; complicity; accomplice; principal offender;*

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probable cause hearing.

An accomplice juvenile is not subject to mandatory bindover based on a principal offender's use of a firearm in a category-two offense. However, in this case the State provided sufficient evidence to support a probable cause finding that the juvenile offender was the principal offender who committed a category-two offense, that being aggravated robbery with one- and three-year firearm specifications.

The trial court erred when it concluded that the State failed to provide sufficient evidence that the juvenile offender possessed and indicated possession of a firearm.

The juvenile offender admitted to police that he had a firearm during the robbery. Although he denied telling the victim he had a gun, the victim testified that one of her assailants told her he had a gun. At this stage of the proceedings, the State was only required to present credible evidence showing probable cause as to each element of the offense. The State did not need prove beyond a reasonable doubt the elements of the offenses. The evidence presented raises more than a suspicion of guilt that the juvenile, who carried the gun, was also the person who said, "I have a gun," which indicated possession.

114127	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v DERRICK FOSTER			

Affirmed.

Eileen T. Gallagher, P.J., Michael John Ryan, J., and William A. Klatt, J.,* concur.

(*Sitting by assignment: William A. Klatt, J., retired, of the Tenth District Court of Appeals.)

KEY WORDS: Crim.R. 11; penalty; sentence; prison term; community control; mandatory; amenable; eligibility.

The trial court engaged in a full and appropriate plea colloquy pursuant to Crim.R. 11(C). The defendant was advised of the maximum penalties he faced, and the guilty plea was knowingly, intelligently, and voluntarily entered.