

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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February 1, 2024

112103 CLEVELAND MUNI. C Criminal Muni. & City
CITY OF CLEVELAND v CHRISTOPHER GRAHAM

Affirmed.

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

KEY WORDS: *Misdemeanor assault; double jeopardy; sufficiency of the evidence; qualified immunity; manifest weight of the evidence; law enforcement reasonable force.*

Former police officer's conviction for misdemeanor assault affirmed, when he used unreasonable force in arresting the victim. Political subdivision immunity does not apply to criminal cases. A second trial for assault is not the same as being retried for unlawful restraint.

112140 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
STATE OF OHIO v JAMIL A. SHABAZZ

Affirmed.

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

KEY WORDS: *Res judicata.*

Appellant's assignment of errors are barred by res judicata.

112481 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v HAROLD WILLIAMS, III

Affirmed.

Sean C. Gallagher, J., and Mary J. Boyle, J., concur; Michelle J. Sheehan, P.J., concurs in judgment only.

KEY WORDS: *Murder; attempted murder; joinder; bifurcation; Confrontation Clause; hearsay; excited utterance; Evid.R. 103(A); plain error; authentication; Evid.R. 404(B); opening the door; impeachment; weight of the evidence; sufficiency of the evidence; self-defense.*

Affirmed. There is no merit to appellant's eight assignments of error, in which the appellant claims that his convictions should be reversed because the trial court denied a motion to sever the trial

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proceedings; the trial court violated his right to confront witnesses; the state failed to authenticate a video played repeatedly for the jury during trial; the trial court impermissibly permitted the state to introduce “other act” evidence under Evid.R. 404(B); his convictions are against the weight of the evidence or based on insufficient evidence; the trial court failed to provide a jury instruction for a lesser-included offense; and that the trial court failed to provide a curative instruction after a testifying police officer revealed that the appellant was in jail.

112515 GARFIELD HTS. MUNI. G Civil Muni. & City
WILL WOODS v QUINTA DOUGLAS, ET AL.

Affirmed.

Kathleen Ann Keough, A.J., Emanuella D. Groves, J., and Mary J. Boyle, J., concur.

KEY WORDS: Stay; due process; abuse of discretion; default judgment; sanctions; damages.

Trial court did not abuse its discretion in granting a motion for a stay in eviction proceedings against the defendants to wait for a ruling on defendants’ Civ.R. 60(B) motion for relief from judgment of the foreclosure proceedings; the stay did not violate plaintiff’s due process rights; the trial court did not abuse its discretion in denying plaintiff’s motion for default judgment where two of the defendants had answered and the other defendants had not been properly served; the trial court did not abuse its discretion in denying plaintiff’s motion for sanctions without a hearing because there was no arguable basis for an award of sanctions; the trial court did not err in denying the plaintiff’s damages claim because the plaintiff failed to present sufficient evidence that the defendants caused any damage to the property.

112573 PROBATE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
JEANNETTE P. HADJUK, ET AL. v DONNA RUSNAK, ET AL.

Affirmed.

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

KEY WORDS: Declaratory judgment; undue influence; will; estate; subject-matter jurisdiction; R.C. 2107.11, domicile; Civ.R. 60, motion for reconsideration; expert witness; trial exhibits; closing arguments.

The probate court had subject-matter jurisdiction over a complaint for declaratory judgment when the overwhelming evidence was that the deceased was domiciled in Cuyahoga County.

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The trial court did not abuse its discretion in limiting closing arguments or cross-examination of witnesses or in not reviewing with appellant each of the exhibits before they were entered into evidence.

112640 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
CONTINUUM TRANSPORTATION SERVICES, LTD v ELITE INTERNATIONAL CORP., LLC, ET AL.

Reversed, vacated and remanded.

Sean C. Gallagher, J., Anita Laster Mays, P.J., and Michelle J. Sheehan, J., concur.

KEY WORDS: Service; Civ.R. 4.2; Civ.R. 4.1; authorized or statutory agent; business address.

Vacated and remanded. Service of the complaint upon an individual associated with a business entity that is sent to an authorized or statutory agent's address, who is registered as the agent for that business entity, does not comport with the civil rules for service of process when there is no evidence that the statutory agent's address is a regular place of business for the individual.

112816 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
KEITH ASHMUS v THOMAS M. COUGHLIN, JR., ET AL.

Affirmed in part; reversed in part; remanded.

Mary J. Boyle, J., and Sean C. Gallgher, J., concur; Michelle J. Sheehan, P.J., concurs in part and dissents in part (with separate opinion).

KEY WORDS: Summary judgment; cross motions; de novo review; contract; real estate transaction; R.C. 5302.30; disclosure form; good faith; duty to disclose; materially and adversely affect use of property; caveat emptor; "as is" clause.

Judgment is affirmed in part, reversed in part, and remanded. After assessing each motion for summary judgment individually, we find that neither Ashmus nor the Coughlins are entitled to judgment as a matter of law. Genuine issues of material fact exist necessitating resolution by trial - did the sewer line, which runs diagonally across the Property, materially and adversely affect the Coughlins' use of the Property and did Ashmus, who knew of the sewer line's existence, have a duty to disclose this information in Section N of the Disclosure Form. Therefore, the trial court's judgment granting Ashmus's motion for summary judgment is reversed and the trial court's judgment denying the Coughlins' motion for summary judgment is affirmed.

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112884 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v DEMOND PEARSON

Affirmed.

Frank Daniel Celebrezze, III, J., Kathleen Ann Keough, A.J., and Sean C. Gallagher, J., concur.

KEY WORDS: *Consecutive sentences; R.C. 2953.08(G)(2); R.C. 2929.14(C)(4)(a)-(c); clear and convincing.*

Judgment affirmed. *This court is unable to clearly and convincingly find that the record does not support the trial court's consecutive-sentence findings where the record demonstrates that appellant engaged in a pattern of extreme, life-threatening violence against three different victims and had a criminal history of engaging in such conduct.*

112898 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE J.C.

112899 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE G.C.

Dismissed and remanded.

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

KEY WORDS: *Contempt; visitation; interference; prejudice; right to appeal.*

Dismissed and remanded. *Appellant failed to demonstrate prejudice caused by the trial court's interlocutory denial of contempt proceedings, and therefore, the appellant does not have the right to appeal the decision.*

113181 DOMESTIC RELATIONS F Civil C.P.-Juv, Dom, Probate
V.C. v O.C.

Dismissed.

Eileen A. Gallagher, P.J., Lisa B. Forbes, J., and Anita Laster Mays, J., concur.

KEY WORDS: *Motion to modify parental rights and responsibilities; motion to show case; continuing jurisdiction; Civ.R. 75(J); service on opposing party; dismissal for want of prosecution; dismissal without prejudice; Civ.R. 41(B); Civ.R. 75(P); appellate jurisdiction; Article IV, Section 3(B)(2), Ohio Constitution; R.C. 2505.02(B);*

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special proceeding; affects a substantial right.

Appeal dismissed for lack of jurisdiction. Trial court's dismissal of appellant-father's motions to show cause and to modify parental rights and responsibilities for want of prosecution was without prejudice where dismissal was not based on the merits and father could refile his motions. Ruling did not affect a substantial right, under the specific facts of the case, where father did not claim that his motions could not be refiled for further consideration by the trial court if he were to properly invoke its continuing jurisdiction or that he would be prejudiced or that there were certain rights he would be relinquishing if he had to refile his motions.