

## CASE DECISION LIST

July 18, 2024

**112641** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v DANIEL GINLEY

Affirmed.

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

**KEY WORDS:** *Aggravated robbery; R.C. 2911.01(A)(1); robbery; R.C. 2911.02(A)(2); firearm specification; R.C. 2941.141(A); R.C. 2941.145(A); having weapons while under disability; R.C. 2923.13(A)(2); receiving stolen property; R.C. 2913.51(A); sufficiency of the evidence; manifest weight; ineffective assistance of counsel; sentencing; Reagan Tokes; speedy trial; examination; scope; presence at court proceedings; due process.*

*Even if it were error for the trial court to accept appointed counsel's waiver of the defendant's presence at the initial appearance, the error did not amount to prejudicial or constitutional error. The defendant's primary complaint was that the court appointed counsel for him when he wanted to proceed pro se, but he later consented to having counsel appointed for him at his arraignment. His argument that there was a possibility the case could have resolved more favorably if he had been present at the initial appearance was speculative in light of the record.*

*The defendant was not denied effective assistance of counsel where he failed to show deficient performance by counsel and further failed to show any prejudice from his absence at the initial appearance or from an alleged failure to file a pretrial motion to dismiss certain counts in the indictment.*

*There was sufficient evidence to support convictions for aggravated robbery, receiving stolen property and having weapons while under disability where the defendant was identified by multiple restaurant workers as the person who robbed those restaurants with a firearm, and where that identification was supported by other evidence in the record. The convictions were not against the manifest weight of the evidence, either.*

*The defendant's statutory and constitutional speedy-trial rights were not violated because, while there was a delay of approximately a year and a half between arrest and trial, most of that delay was due either to the defendant changing his representation multiple times or to competency evaluations.*

*It was not an abuse of discretion for the trial court to allow testimony of a police detective, on redirect, regarding a report that the firearm had been reported stolen. Even if that were outside the scope of cross-examination, the trial court permitted the defense a recross-examination and defense counsel availed himself of that opportunity.*

*The defendant's indefinite Reagan Tokes sentence was not contrary*

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**to law; the court correctly advised the defendant of the nature of the sentence at the sentencing hearing and there is no reason to remand for resentencing.**

**113128** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v DASHON HARRIS

Affirmed.

Michael John Ryan, J., Kathleen Ann Keough, A.J., and Michelle J. Sheehan, J., concur.

**KEY WORDS: Felonious assault; aggravated robbery; sufficiency of the evidence; manifest weight of the evidence; ineffective assistance of counsel; other acts evidence.**

***Appellant's convictions for felonious assault and aggravated robbery were supported by sufficient evidence and not against the manifest weight of the evidence when the evidence showed that appellant, along with his codefendant girlfriend, used a gun and assaulted the girlfriend's mother to force the mother to give them more money.***

***Appellant was not denied the effective assistance of counsel and any other acts evidence that was admitted at trial was either admissible or harmless error.***

**113231** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
JAMES GERACE v CLEVELAND CLINIC FOUNDATION, ET AL.

Affirmed.

Michael John Ryan, J., and Sean C. Gallagher, J., concur; Michelle J. Sheehan, P.J., dissents (with separate opinion).

**KEY WORDS: Civ.R. 56; summary judgment; tortious interference; attorney-client privilege; work-product; common-interest doctrine.**

***The trial court did not err in granting appellees' motion for summary judgment when there was no genuine issue of material fact that appellees did not tortiously interfere in appellant's relationship with his previous employer.***

***The trial court did not err in denying appellant's motion to compel because the discovery in question was covered by the work-product and common-interest doctrine. Appellees' counsel also was not required to create a privilege log.***

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**113364** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v ASHLEY DAVIS HARRIS

Affirmed.

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

**KEY WORDS:** *Sufficiency of the evidence; manifest weight of the evidence; inconsistent testimony; jury instruction; R.C. 2903.03; sufficient provocation.*

*Defendant-appellant's convictions were supported by sufficient evidence and were not against the manifest weight of the evidence. Absent evidence of sufficient provocation for purposes of R.C. 2903.03(A), the trial court did not err when it declined to provide a jury instruction on voluntary manslaughter.*

**113400** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v MICHAEL FITZGERALD, III

Reversed and remanded.

Frank Daniel Celebrezze, III, J., Mary J. Boyle, P.J., and Michael John Ryan, J., concur.

**KEY WORDS:** *Consecutive prison terms; firearm specification; R.C. 2929.14; same act or transaction; separate times, locations, or different victims; joinder for trial; Crim.R. 8; guilty plea; complete admission of facts in indictment.*

*The felonious assault and drug trafficking offenses were not committed as part of the same transaction, and the trial court was therefore required to order all of the firearm specifications to be served consecutively.*

**113430** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v ISAIAH ALLEN

Affirmed.

Anita Laster Mays, J., Kathleen Ann Keough, A.J., and Sean C. Gallagher, J., concur.

**KEY WORDS:** *Reagan Tokes Law, S.B. 201.*

*Appellant's challenge to the constitutionality of the Reagan Tokes Law fails based on the Ohio Supreme Court's holding in State v. Hacker, 2023-Ohio-2535, that the law is constitutional.*

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**113434** CLEVELAND MUNI. C Criminal Muni. & City  
CITY OF CLEVELAND v RAYVON HALE

Affirmed.

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

**KEY WORDS:** *Aggravated disorderly conduct; disorderly conduct; resisting arrest; harm to law enforcement; Cleveland Cod.Ord. 605.03; R.C. 2921.33(B); misdemeanor convictions; sufficiency; manifest weight.*

*Affirmed appellant's misdemeanor convictions for two counts of aggravated disorderly conduct, disorderly conduct, and resisting arrest with harm to law enforcement. Appellant's convictions were supported by sufficient evidence and were not against the manifest weight of the evidence.*

**113440** JUVENILE COURT DIVISION E Civil C.P.-Not Juv,Dom Or Prob  
IN RE: C.M., ET AL.

**113441** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
IN RE: C.M., ET AL.

Reversed and remanded.

Kathleen Ann Keough, A.J., Eileen T. Gallagher, J., and Anita Laster Mays, J., concur.

**KEY WORDS:** *R.C. 2151.28(L); findings of fact and conclusions of law; dependency.*

*Juvenile court's judgments finding the children dependent reversed and remanded where the juvenile court's journal entries did not comply with the requirements of R.C. 2151.28(L) because the court did not make specific findings of fact and conclusions of law.*

**113448** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
JANE ROE, ET AL. v JOHN TAYLOR, ET AL.

Affirmed.

Michael John Ryan, J., Kathleen Ann Keough, A.J., and Eileen A. Gallagher, J., concur.

**KEY WORDS:** *Summary judgment; child pornography; foreign judgment; R.C. 2111.17; App.R. 12; App.R. 16.*

*Appellant entered into an agreement with federal prosecutors to avoid prosecution for child pornography. The appellees, who were*

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the minor victims and are now adults, obtained a judgment against appellant, who for years has tried to evade paying the judgment.

Appellees brought a creditor's claim against appellant, identifying themselves using pseudonyms, as they had done in all prior litigation. The trial court properly granted summary judgment in favor of appellees. Appellant's claim that the appellees are not allowed to file suit using pseudonyms has repeatedly been raised and found to be without merit in both state and federal court. His argument is once again wholly without merit.

The court declines to review any assigned error that appellant raised but failed to argue separately in his brief.

<b>113472</b>	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v DEERIUS THOMPSON			

Reversed and remanded.

Michael John Ryan, J., Mary J. Boyle, P.J., and Frank Daniel Celebrezze, III, J., concur.

**KEY WORDS:** *Recognizance bond; surety; forfeiture; defendant incarcerated; judgment against surety; abuse of discretion.*

*Judgment reversed. The trial court abused its discretion in ordering judgment against the surety because the surety demonstrated good cause for its failure to secure the defendant's presence in court. Specifically, the defendant was incarcerated in another county's jail.*

<b>113488</b>	COMMON PLEAS COURT	E	Civil C.P.-Not Juv,Dom Or Prob
JANE DOE v ROBERT ROE, ET AL.			

Affirmed.

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

**KEY WORDS:** *Keywords: pseudonym; final appealable order; Civ.R. 10(A); abuse of discretion.*

*The trial court did not abuse its discretion by ultimately denying plaintiff's motion to proceed under pseudonym status because plaintiff's privacy interests do not substantially outweigh the presumption of open judicial proceedings. Applying the factors established by Ohio courts, we find that this is not an exceptional circumstance requiring the use of pseudonyms.*

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**113549** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
12312 MAYFIELD ROAD, LLC v HIGH & LOW LITTLE ITALY, LLC

Reversed and remanded.

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

**KEY WORDS:** *Motion to compel; attorney-client privilege; R.C. 2317.02; discovery request; agency; in camera inspection; evidentiary hearing.*

*The trial court abused its discretion when it granted defendant-appellee's motion to compel without first conducting an evidentiary hearing or in camera inspection of the documents to determine whether plaintiff-appellant's real estate agents/brokers were agents for attorney-client privilege purposes.*