

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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March 14, 2024

112195 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v DEANDRE HARRIS

Affirmed.

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

KEY WORDS: *Manifest weight; having weapons while under disability; firearm specifications.*

The defendant's conviction for having a weapon while under disability, with a 54-month firearm specification, was not against the manifest weight of the evidence where a witness testified that she saw the defendant enter an apartment with a firearm on his hip and later saw him move the firearm to a coat pocket.

112294 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
SETH NEUGEBAUER, INDIVIDUALLY & AS ADMINSTRATOR, ET AL. v
JOHN FARINACCI, D.O., ET AL.

Affirmed.

Kathleen Ann Keough, A.J., Lisa B. Forbes, J., and Eileen T. Gallagher, J., concur.

KEY WORDS: *Medical negligence; delivery; R.C. 2305.252(A); peer review privilege; privileges; suspended; revoked; Evid.R. 611; Evid.R. 613; motion in limine; relevancy; Evid.R. 401; unfairly prejudicial; Evid.R. 403(B); impeachment; cross-examination.*

Defendant-physician did not withstand his threshold burden of establishing the existence of a committee that met the statutory definition of peer review committee contained in R.C. 2305.25(E). Trial court's determination that peer review committee privilege shielded defendant-physician about hospital privilege status was in error. Nevertheless, the trial court properly limited examination about hospital privileges because the probative value of whether defendant-physician's hospital privileges were suspended or revoked following the child's delivery was substantially outweighed by the danger of unfair prejudice, confusion of the issues, and misleading the jury. No abuse of discretion in the trial court's decision to limit cross-examination of defendant-physician about the status of his privileges.

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112325 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v DAMARION SCOTT

Affirmed in part, reversed in part and remanded.

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

KEY WORDS: *Probable cause for bindover; sufficiency and weight of the evidence; hearsay; juror misconduct; opinion testimony; ineffective assistance of counsel.*

Juvenile court did not err in binding over appellant to adult court where evidence established all elements of the crime and there was sufficient evidence to identify appellant as one of the perpetrators to meet the probable cause standard necessary for bindover.

There was sufficient evidence to support appellant's convictions, where there was video of the entire incident and sufficient evidence identifying appellant as one of the suspects. Although mother denied identifying her son, there was sufficient circumstantial evidence that contradicted her testimony to show the state presented sufficient evidence as to all elements of the charges. However, the state failed to present sufficient evidence to support the conviction for having weapons while under disability where they introduced certified copies of the appellant's prior adjudications, which included his name, birth date, and physical description, but no one in the state's case-in-chief testified as to appellant's birth date and physical description.

Appellant's convictions were supported by the greater weight of the evidence.

It was not plain error when the trial court allowed the case to continue when a juror overheard one of the appellant's family members speaking loudly about the case and that juror felt what he heard influenced his ability to continue. The trial court removed that juror, questioned the remaining jurors, and determined that although some were aware of a loud conversation by appellant's family members, none of them heard what was said, and felt they could continue to impartially deliberate.

The trial court erred when it allowed the state's video expert to testify about his opinion of the contents of surveillance video; however, the error was harmless. The witness testified about the colors of clothing, he did not attempt to identify the suspects, and he was subject to cross-examination on those opinions.

Appellant did not receive ineffective assistance of counsel when his attorney opened the door for redirect testimony or when he failed to request a new trial after the jury incident. There was sufficient evidence even without the complained-of testimony for the jury to find appellant guilty; therefore he failed to establish prejudice. Further, appellant was not prejudiced by the video expert's testimony, as the appeals court could not find that the outcome would have been different if the evidence had not been allowed.

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112419 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v RONALD HICKS, JR.

Affirmed in part; reversed in part; and remanded in part.

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

KEY WORDS: *Abuse of discretion; presentence motion; Crim.R. 11; vacate plea.*

The trial court did not abuse its discretion when it denied Hicks's presentence motion to withdraw plea. Including that Hicks had a change of heart due to the influence of others; no manifest injustice occurred to require Hicks's plea be vacated where it was knowingly, intelligently, and voluntarily made and the trial court did not completely fail to inform Hicks of the maximum penalty he face; trial court complied with Crim.R. 11, speculation that "others" committed the offense without more is not enough to vacate plea; sentence is contrary to law where the trial court ordered a term of years at the oral sentencing hearing, which was different than what was ordered on the JE; clerical mistake to be corrected by nunc pro tunc JE; to provide Hicks with complete notifications of the consequences face for violations postrelease-control supervision.

112445 CLEVELAND MUNI. C Criminal Muni. & City
CITY OF CLEVELAND v ANTHONY KUSHLAK

Affirmed in part, modified in part, and remanded.

Mary Eileen Kilbane, J., Kathleen Ann Keough, A.J., and Lisa B. Forbes, J., concur.

KEY WORDS: *Community-control sanctions; community-control conditions; R.C. 2929.25(A)(1)(a); R.C. 2929.25(B); R.C. 2929.25(D)(2); expiration of community-control sanctions; App.R. 12(A)(1); and modify.*

The housing court did not abuse its discretion where the court imposed modified terms of community control pursuant to its authority under R.C. 2929.25(B). The housing court did not erroneously extend appellant's term of community-control sanctions, but imposed the term stated in the original sentencing judgment entry. Pursuant to App.R. 12(A)(1), this court remands the case so that the trial court can modify the judgment entry and delete confusing and incorrect conditions of community control.

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112506 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v JOHN JORDAN, III

Affirmed.

Michelle J. Sheehan, P.J., Mary J. Boyle, J., and Sean C. Gallagher, J., concur.

KEY WORDS: *Jury panel, venire, challenge, admission of evidence, excited utterance, Evid.R. 803(B)(2), manifest weight of the evidence.*

Defendant was charged with murder, felonious assault, and having weapons while under disability following the death of the mother of one of his children. The victim was killed by a single gunshot to the back of her head, and her body was found at the side of her house. Defendant's son testified that his mother and defendant were arguing and that after he heard a gunshot, defendant left the house. The son looked for his mother and found her lying on the ground outside. The victim's daughter testified that after she heard a gunshot, defendant came into the house and said it was no big deal and then left the house.

Before trial, defendant objected to the venire because it did not contain any African-American men. The trial court properly denied the motion to dismiss the venire because there was no evidence that African-American men were unfairly represented in venires in Cuyahoga County or systematically excluded from jury service.

The trial court did not abuse its discretion by allowing body-camera footage of police arrival at the scene of the murder because the statements were excited utterances where they were made by declarants that observed a startling event and they were still under the stress of the event.

Circumstantial and direct evidence inherently possess the same probative value and the state is not required to present DNA or fingerprint evidence to meet its burden of persuasion. Although there was no DNA evidence and the weapon used to kill the victim was not recovered, the conviction was not against the manifest weight of the evidence.

112594 PROBATE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
RICHARD WEINBERG, EXECUTOR v MERRIMAN LEGANDO WILLIAMS & KLANG, LLC, ET AL.

112595 PROBATE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
RICHARD WEINBERG, EXECUTOR v MERRIMAN LEGANDO WILLIAMS & KLANG, LLC, ET AL.

Affirmed.

Michael John Ryan, J., Frank Daniel Celebrezze, III, P.J., and Emanuella D. Groves, J., concur.

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(Case 112595 continued)

KEY WORDS: Jurisdiction; subject-matter jurisdiction; probate court; estate; bar association; Ohio Rule of Professional Conduct 1.5(f); Civ.R. 12(B)(1) motion to dismiss; Civ.R. 12(B)(6) motion to dismiss; R.C. 2109.50; separation agreement; fee-sharing dispute.

Probate court correctly concluded that it did not have subject-matter jurisdiction over concealment actions filed in that court because the actions were a dispute between the two law firms regarding the division of shared legal fees arising out of a separation agreement between the law firms and individual attorneys and therefore jurisdiction is exclusively with the state or local bar association pursuant to Prof.Cond.R. 1.5.

112782 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v DEMETRIUS ALLEN

Affirmed.

Eileen A. Gallagher, P.J., Anita Laster Mays, J., and Frank Daniel Celebrezze, III, J., concur.

KEY WORDS: *Crim.R. 33; motion for leave to file a motion for a new trial; hearing; newly discovered evidence; recanting witness; abuse of discretion; conclusory assertions.*

Trial court did not abuse its discretion in denying, without a hearing, defendant's motion for leave to file a motion for a new trial pursuant to Crim.R. 33(A)(6) and (B) based on (1) affidavits related to the testimony of a recanting witness and (2) the discovery of municipal court records allegedly showing another witness lied at trial regarding the date he performed court-ordered community service. Defendant presented no evidence detailing his efforts, if any, to timely discover recanting witness testimony or explaining why any such efforts would have been unavailing. Likewise, defendant provided no affidavits or other evidence detailing how he learned of the existence of the municipal court records and why he, his attorneys or his private investigator could not have timely discovered them. Defendant's conclusory assertions that he was unavoidably prevented from timely discovering the new evidence he sought to support a motion for a new trial did not require a hearing on his motion for leave.

112798 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
MALIK D. ROBINSON, ET AL. v CITY OF CLEVELAND, ET AL.

Affirmed and remanded.

Mary Eileen Kilbane, J., Michelle J. Sheehan, P.J., and Eileen T. Gallagher, J., concur.

KEY WORDS: *Motion for summary judgment; R.C. 2744.02; R.C.*

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(Case 112798 continued)

2744.03; political subdivision tort liability; three-tier analysis; immunity; emergency call.

The trial court did not err when it denied a political subdivision's motion for summary judgment because genuine issues of material fact existed as to whether the employee-police officer was on an "emergency call" at the time of the subject automobile accident. The trial court did not err when it denied the police officer's motion for summary judgment where there remained questions of fact whether the officer was responding to an "emergency call" and whether his acts amounted to wanton or reckless behavior.

112802 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: N.I., ET AL.

Reversed and Remanded.

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

KEY WORDS: Temporary custody; abused child; R.C. 2151.031(D).

The trial court erred when it adjudicated J.I. to be abused. The trial court erred when it adopted the magistrate's decision committing the children to the temporary custody of CCDCFS.

112833 DOMESTIC RELATIONS F Civil C.P.-Juv, Dom, Probate
E.A.K.M. v M.A.M.

Vacated.

Mary J Boyle, J., and Eileen A. Gallagher, P.J., concur; Michael John Ryan, J., dissents (with separate opinion).

KEY WORDS: Final appealable order; R.C. 2505.02; dismissal; without prejudice; divorce; GAL fees; newly filed action; jurisdiction.

Judgment is vacated. The domestic relations court's judgment in the newly filed, underlying action awarding the GAL fees incurred in the dismissed 2019 case is a final and appealable order because this order, if not immediately appealable, would not afford appropriate relief to the parties in the future. Furthermore, the domestic relations court was without jurisdiction to order the GAL fees in the underlying action because the 2019 case was dismissed without prejudice and is treated as though it never commenced.

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112836 COMMON PLEAS COURT A Criminal C.P.
CONTEMPT OF: CARILLIA WALLACE

Affirmed.

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

KEY WORDS: *Contempt of court, direct contempt, contemptuous conduct, punishment, sufficiency of journal entry, standard of review, abuse of discretion.*

The trial court held appellant in direct contempt following an outburst from the gallery in a courtroom. The outburst caused the deputy sheriff to move to remove appellant and the court stopped the proceedings. The court summarily imposed a \$100 fine and ordered that appellant remain in custody until the fine was paid.

A trial court has both inherent and statutory authority to summarily punish acts of misbehavior in the presence of the court that obstructs the administration of proceedings. An outburst in a courtroom that disrupts court proceedings may be punishable by direct contempt. The punishment imposed must be reasonably commensurate with the gravity of the conduct. The journal entry of contempt must contain the facts upon which the contempt was found because it is critical for the reviewing court to be able to examine the facts upon which the trial court based its direct contempt finding. Because a court has summary power to punish contempt, the contemnor does not have the right of allocution and the Rules of Criminal Procedure do not apply to direct contempt proceedings. A finding of direct contempt is reviewed for an abuse of discretion.

The trial court's finding of contempt for an outburst that stopped the court's proceedings is not an abuse of discretion. Appellant did not have the right to allocution because the court has both inherent and statutory power to punish a contemnor for direct contempt. A \$100 fine for contempt and an order not to leave until the fine was paid was proportionate to the disruption caused and reasonable. The journal entry finding appellant in contempt affirmatively states the reason for the contempt finding and did not preclude appellate review.

112840 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
EDWARD BIESIADA v CITY OF NORTH ROYALTON MAYOR, ET AL.

Affirmed.

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

KEY WORDS: *Administrative appeal; zoning; variance; motion to dismiss; mootness.*

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(Case 112840 continued)

The trial court properly dismissed an administrative appeal as moot where the appellant failed to obtain a stay or seek an injunction and construction of the fence in question had already begun.

112874 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v MARQUIS ADKISSON

Affirmed.

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

KEY WORDS: *Crim.R. 11; plea hearing; motion for new attorney on day of trial; Sixth Amendment right to counsel; Crim.R. 44.*

The trial court did not abuse its discretion in denying appellant's request for a new attorney. The request was made on the day of trial. Appellant's plea was in compliance with Crim.R. 11.

112880 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v KEVIN SMITH, JR.

Affirmed.

Kathleen Ann Keough, A.J., Eileen T. Gallagher, J., and Sean C. Gallagher, J., concur.

KEY WORDS: *Hearsay; excited utterance exception; felonious assault; sufficiency of evidence; manifest weight of the evidence.*

Trial court did not improperly consider hearsay testimony in bench trial because the defendant's statement to his neighbor regarding who shot him was not hearsay under the excited utterance exception to the hearsay rule; defendant's conviction for felonious assault was supported by sufficient evidence and not against the manifest weight of the evidence.

112917 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v COURTNEY HILL-BRYANT

Affirmed.

Frank Daniel Celebrezze, III, J., Eileen A. Gallagher, P.J., and Anita Laster Mays, J., concur.

KEY WORDS: *Felonious assault; deadly weapon; sufficiency of the evidence; manifest weight of the evidence; Evid.R. 702(C); expert*

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(Case 112917 continued)

testimony; police officer testimony; ineffective assistance of counsel.

Judgment affirmed. Appellant's convictions were not against the manifest weight of the evidence or based on insufficient evidence. The police officer's testimony was properly admitted by the trial court. The appellant did not receive ineffective assistance of counsel.

112942 DOMESTIC RELATIONS F Civil C.P.-Juv, Dom, Probate
M. E. K. v P. K.

Affirmed in part, reversed in part, and remanded.

Sean C. Gallagher, J., and Emanuella D. Groves, J., concur; Lisa B. Forbes, P.J., concurs in part and dissents in part (with separate opinion).

KEY WORDS: Magistrate's decision; custody; Civ.R. 75; R.C. 3105.73; abuse of discretion; App.R. 18(C); attorney fee award; reasonableness.

Reversed in part and remanded. Appellant failed to demonstrate error with the guardian ad litem's appointment solely in that capacity and not as counsel to the children, but the domestic relations court erred in awarding attorney fees based on a heavily redacted fee bill.

112949 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v STANLEY JACKSON

Affirmed.

Eileen A. Gallagher, P.J., and Mary J. Boyle, J., concurs; Michael John Ryan, J., concurs in part and dissents in part (with separate opinion).

KEY WORDS: Crim.R. 8(A); joinder of offenses; Crim.R. 14; severance; plain error; other acts test; simple and direct test; Evid.R. 404(B); prejudice; ineffective assistance of counsel; futile act; imposition of sentences on firearm specification; having weapons while under disability; R.C. 2929.14(B)(1)(e).

Defendant did not show that the trial court's failure to, sua sponte, sever offenses relating to three separate incidents for trial constituted an obvious error or that there was a reasonable probability that any alleged error resulted in prejudice, affecting the outcome of the trial. The offenses relating to the three incidents were charged together under Crim.R. 8(A) because they were of the "same or similar character" and were "based on two or more acts or transactions connected together" that were part of a "course of

(Case 112949 continued)

criminal conduct” occurring in close proximity, in or around the same geographic area, over a relatively short period of time. Evidence of the other offenses may have been admissible other-acts evidence under Evid.R. 404(B) if the offenses related to each incident had been tried separately because defendant used the vehicle he stole in the first incident to facilitate his crimes in the second incident, there were a number of striking similarities between the manner in which the offenses in the three incidents were committed, suggestive of a modus operandi, and evidence offered in support of the kidnapping and rape charges in the second incident would have arguably been admissible to rebut defendant’s claim of consent in the third incident (and vice versa). The evidence supporting each offense was simple and direct without significant overlap or conflation of proof, and the state presented substantial evidence supporting defendant’s convictions.

Defendant did not establish ineffective assistance of counsel based on counsel’s failure to request severance where defendant did not show a motion to sever, if filed, would have been successful and or that he was prejudiced by the joinder of the offenses at issue.

Trial court did not commit plain error in imposing sentences on the firearm specifications attached to having weapons while under disability charges where the parties stipulated to the admissibility of judgment entry establishing defendant’s prior first-degree felony conviction and it could be reasonably inferred from the facts that less than five years had passed since defendant was released from prison or postrelease control for the prior offense, satisfying the requirements of R.C. 2929.14(B)(1)(e).

112964 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
ERIK COLEMAN v BIG TRUCK REHAB CENTER, INC., ET AL.

Affirmed.

Emanuella D. Groves, J., Lisa B. Forbes, P.J., and Sean C. Gallagher, J., concur.

KEY WORDS: *Independent contractor; employer; employee; employment relationship; manifest weight; overtime; Federal Labor Standards Act; Ohio Minimum Wage Standards Act; wages; right to control; economic reality test; Bostic test; prompt payment.*

The trial court did not err in finding appellant an independent contractor as opposed to an employee. Persons claiming employee status must prove they are employees; right to control the manner of work is the chief test in determining whether one is employee or independent contractor.

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112965 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v KENNETH BANVILLE

Affirmed and remanded.

Sean C. Gallagher, J., Kathleen Ann Keough, A.J., and Eileen T. Gallagher, J., concur.

KEY WORDS: *Involuntary manslaughter; gross abuse of a corpse; corrupting another with drugs; death; consecutive sentence; separate cases; findings; R.C. 2929.14(C)(4); support; R.C. 2953.08(G)(2); sentencing entry; nunc pro tunc; Reagan Tokes Law; indefinite sentence.*

Affirmed appellant's convictions and sentence, but remanded the matter to the trial court to issue a nunc pro tunc sentencing entry that incorporates its consecutive-sentence findings. The trial court made all the required consecutive-sentence findings under R.C. 2929.14(C)(4), and the consecutive sentences were upheld under the R.C. 2953.08(G)(2) standard. R.C. 2929.14(C) does not distinguish between multiple counts in a single case and multiple counts in separate cases. Multiple sets of findings were not required. Rejected constitutional challenges to the Reagan Tokes Law.

112974 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v LUIS DEJESUS

Affirmed.

Lisa B. Forbes, P.J., Emanuella D. Groves, J., and Sean C. Gallagher, J., concur.

KEY WORDS: *Aggravated menacing; domestic violence, harassment by inmate; community-control sanctions; prison term; felony sentencing.*

The court's discretionary imposition of prison was not contrary to law when defendant violated a bond condition while awaiting sentencing.

112987 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v CHARLES WOODS

Affirmed in part and vacated in part.

Eileen T. Gallagher, J., Kathleen Ann Keough, A.J., and Sean C. Gallagher, J., concur.

KEY WORDS: *Rape; gross sexual imposition; sufficiency; manifest*

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(Case 112987 continued)

weight; digital penetration; sexually violent predator specification.

Defendant's rape and gross sexual imposition convictions were supported by sufficient evidence and the weight of the evidence, except for one in which the evidence was not sufficient to support a rape conviction but was sufficient to support the lesser-included offense of gross sexual imposition.

Trial court's guilty finding on sexually violent predator specifications were not against the manifest weight of the evidence, but the trial court erroneously found the defendant guilty on one specification that required proof of a prior conviction of sexually violent offense but there was no evidence of a prior conviction.

113005	JUVENILE COURT DIVISION	F	Civil C.P.-Juv, Dom, Probate
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IN RE: A.J.

Reversed and remanded.

Sean C. Gallagher, J., Kathleen Ann Keough, A.J., and Eileen T. Gallagher, J., concur.

KEY WORDS: Legal custody; magistrate's decision; objections; timely; transcript; Juv.R. 40(D)(3)(b); Juv.R. 40(D)(4)(d); independent review; abuse of discretion; adopted; prematurely.

Reversed the decision of the juvenile court that prematurely adopted the magistrate's decision and committed the child to the legal custody of the child's father. The juvenile court entered final judgment when mother had timely filed objections to the magistrate's decision pursuant to Juv.R. 40(D)(3)(b) and her request to file a transcript was granted, but the transcript was not yet submitted. The matter was remanded with instructions for the juvenile court to permit mother to file the requested transcript and to then conduct the independent review required by Juv.R. 40(D)(4)(d).

113069	COMMON PLEAS COURT	A	Criminal C.P.
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STATE OF OHIO v SAMUEL OTERO

113307	COMMON PLEAS COURT	A	Criminal C.P.
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STATE OF OHIO v SAMUEL OTERO

Affirmed in part, vacated in part, and remanded.

Mary Eileen Kilbane, P.J., Emanuella D. Groves, J., and Michael John Ryan, J., concur.

KEY WORDS: Consecutive sentences; community control; probation-violation hearing; suspended sentence; notification; imposition of prison; ineffective assistance of counsel.

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(Case 113307 continued)

The imposition of consecutive sentences upon revocation of community control was improper where the court did not notify the defendant of the possibility of suspended sentences being run consecutively. The trial court's imposition of prison was proper. The defendant received effective assistance of counsel.

113202 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v BRYLIN PICKENS

Affirmed.

Sean C. Gallagher, J., Kathleen Ann Keough, A.J., and Eileen T. Gallagher, J., concur.

KEY WORDS: *Involuntary manslaughter; juvenile court; mandatory transfer; R.C. 2152.12; probable cause; complicity; guilty plea; waiver.*

Affirmed. *The defendant's argument regarding whether an offender under the age of majority is subject to mandatory transfer to the general division has been overruled in State v. Bond, 8th Dist. Cuyahoga No. 110520, 2022-Ohio-1246, and any argument pertaining to the factual foundation of the probable-cause determination cannot be challenged based on the defendant's guilty plea to improper discharge and involuntary manslaughter offenses.*

113258 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE I.N.

Affirmed.

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

KEY WORDS: *Permanent custody; case plan; housing; basic needs; reasonable time; domestic violence; mental health; referral; reasonable; diligent; best interests; clear and convincing evidence; manifest weight.*

Competent, credible evidence supported the court's finding that it was in child's best interest to award permanent custody to CCDCFS and that the child could not be placed with his parents within a reasonable time or should not be placed his parents under R.C. 2151.414(B)(1)(a), 2151.414(E)(1), (4), (14), and (16). The juvenile court's judgment granting the agency's motion for permanent custody and terminating Mother's parental rights was not against the manifest weight of the evidence.