

## CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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**March 28, 2024**

**112564** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v TERRY FOSTER

Affirmed in part; vacated in part; and remanded.

Anita Laster Mays, J., and Kathleen Ann Keough, A.J., concur; Lisa B. Forbes, concurs in judgment only in part and dissents in part (with separate opinion).

**KEY WORDS:** *Crim.R. 11; guilty plea; knowingly, intelligently, voluntarily; Sierah's Law, R.C. 2903.41 through 2903.44; R.C. 2929.14(C)(4), consecutive sentences; firearm specification, R.C. 2941.145(A); mandatory prison term; Reagan Tokes Law.*

*Appellant's plea was knowingly, intelligently, and voluntarily made. The trial court partially complied with Crim.R. 11(C)(2)(a) regarding mandatory imprisonment and consecutive service of the firearm specification, but appellant failed to demonstrate prejudice. The trial court failed to make the R.C. 2929.14(C)(4) consecutive-sentence findings on the record or in the judgment entry, advise the appellant of Sierah's Law's registration obligations, and apply the Reagan Tokes Law to the involuntary manslaughter sentence.*

**112860** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v DONNIE SIMS

Dismissed.

Michael John Ryan, J., Eileen T. Gallagher, P.J., and Anita Laster Mays, J., concur.

**KEY WORDS:** *Anders brief; motion to withdraw.*

*The trial court dismissed two of appellant's multiple rape convictions after, on appellant's direct appeal, this court found insufficient evidence to support those convictions. Counsel filed a motion to withdraw pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967). Based on our review of the record, there are no meritorious claims and the appeal is wholly frivolous.*

**113024** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
FRANK J. BUKOVEC, ET AL. v KEITH KEGER, ET AL.

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Dismissed.

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

**KEY WORDS:** *Motion for relief from judgment; Civ.R. 60(B); default judgment; bootstrapping.*

**Appeal dismissed. By appealing the June 29, 2023 journal entry denying appellants' second motion for relief from judgment, appellants are attempting to bootstrap arguments that are time barred. Appellants are attempting to utilize the instant appeal (their second Civ.R. 60(B) motion for relief from judgment) to improperly seek review of alleged errors that they failed to timely appeal (the grant of default judgment). As a result, we lack jurisdiction to consider this appeal.**

<b>113034</b>	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v FREDRICK JOHNSON			

Affirmed.

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

**KEY WORDS:** *As-applied; constitutional; Second Amendment; firearm; having weapons while under disability; freedom to marry; sufficient; constructive possession; plain error.*

**The trial court did not commit plain error by failing to conclude that the defendant's convictions for having weapons while under disability were unconstitutional as applied. Counsel was not ineffective for failing to raise a constitutional challenge to R.C. 2923.13(A)(2)-(3). The having-weapons-while-under-disability statute does not infringe on an individual's fundamental freedom to marry. Defendant's convictions were supported by sufficient evidence.**

<b>113083</b>	JUVENILE COURT DIVISION	F	Civil C.P.-Juv, Dom, Probate
IN RE A.M.			

Affirmed.

Michelle J. Sheehan, P.J, Mary Eileen Kilbane, J., and Michael John Ryan, J., concur.

**KEY WORDS:** *Permanent custody; R.C. 2151.414; best interest; Kinship Caregiver Law; R.C. 2151.4116 - 2151.4119; legal custody; constitutional rights; substantive due process.*

**There is no reversible error with respect to the Kinship Caregiver Law. The trial court's judgment denying mother's motion for legal custody to maternal aunt and granting permanent custody to the**

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(Case 113083 continued)

**agency was affirmed. The trial court's judgment finding that it was in the child's best interest to be placed in the permanent custody of the agency was supported by clear and convincing evidence. The trial court did not violate mother's substantive due process rights as applied to the facts of her case.**

**113090** DOMESTIC RELATIONS F Civil C.P.-Juv, Dom, Probate  
JOCELYN O. HALTON v BEN HALTON

Affirmed in part, reversed in part, and remanded.

Sean C. Gallagher, J., Eileen A. Gallagher, P.J., and Frank Daniel Celebrezze, III, J., concur.

**KEY WORDS: Divorce; equal division; assets; debt; marital home; real property; retirement assets; future date; R.C. 3105.171(C); R.C. 3105.171(J)(1).**

**Reversed in part the division of property in a divorce action. The trial court did not abuse its discretion in dividing assets and debts in accordance with the parties' stipulations on nearly all issues or in ordering an equal division of the remaining assets and debts, which included retirement assets and the marital home. However, the trial court abused its discretion in using a future date after the end of the marriage for determining an equal division of the real property. The case was remanded with instructions for the trial court to equally divide the equity in the marital home that existed on the termination of marriage date.**

**113153** COMMON PLEAS COURT E Civil C.P.-Not Juv, Dom Or Prob  
SOFI LENDING CORP. AS ATTORNEY FOR BLUE RIDGE v TYRONE WILLIAMS

Affirmed.

Frank Daniel Celebrezze, III, J., Eileen A. Gallagher, P.J., and Sean C. Gallagher, J., concur.

**KEY WORDS: Breach of loan agreement; default judgment; Civ.R. 55; abuse of discretion; sovereign citizen; Moorish American National; frivolous arguments; debt evasion.**

**Judgment affirmed. Appellant's argument against the trial court's judgment granting default judgment against appellant that he is a "Moorish American National" and therefore not subject to common law contractual rights is summarily overruled.**

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**113191** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v VEGIL ST. VALLE

Affirmed.

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

**KEY WORDS:** *Felony sentencing; appellate review; agreed sentence; sentencing range; R.C. 2953.08(D)(1); trafficking; R.C. 2925.03(A)(2); possessing criminal tools; R.C. 2923.24(A); mandatory fine; R.C. 2929.18(B)(1); R.C. 2925.03(D)(1); indigency; plain error.*

*The prison sentences imposed on the defendant for drug trafficking and possession of criminal tools are not reviewable on appeal by operation of R.C. 2953.08(D)(1). The sentences were authorized by law and the aggregate sentence was within the range jointly recommended by the defendant and the state pursuant to a plea agreement. While the defendant disagreed with the trial court's weighing of certain sentencing factors, he made no argument that the sentences fell outside the statutory ranges for the offenses or failed to comport with any mandatory sentencing provision. Nor did the defendant challenge his sentence on constitutional grounds or assert any argument with respect to the validity of his plea.*

*The imposition of a mandatory fine on the trafficking count was not plain error. The trial court considered the defendant's present and future ability to pay the fine and the defendant failed to show he was unable to pay it. He had been employed, had stable housing and close family ties, retained counsel at the trial and appellate levels and was arrested while in the possession of multiple cell phones and hundreds of dollars in cash.*

**113284** JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate  
IN RE A.M.

Affirmed.

Michelle J. Sheehan, P.J., Lisa B. Forbes, J., and Mary J. Boyle, J., concur.

**KEY WORDS:** *Parental rights; permanent custody; manifest weight of the evidence; R.C. 2151.414; clear and convincing evidence; best interests of the child; abuse of discretion.*

*The record contains clear and convincing evidence to support the juvenile court's finding that the child was in the agency's custody for 12 months or longer for a consecutive 22-month period and that it was in the best interests of the child to grant permanent custody to the agency. The juvenile court's grant of permanent custody of the child to the agency was not against the manifest weight of the evidence.*