

## CASE DECISION LIST

**October 24, 2024**

**112655** JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate  
IN RE: D.W.

Affirmed.

Anita Laster Mays, J., and Mary J. Boyle, P.J., concur; Frank Daniel Celebrezze, III, J., dissents (with separate opinion).

**KEY WORDS:** *Probable cause; juvenile court.*

***The juvenile court did not err in determining that probable cause did not exist to believe that the appellee committed the crimes charged.***

**113141** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v GREGORY WILLIAMS

Affirmed.

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

**KEY WORDS:** *Ineffective assistance of counsel; restitution; R.C. 2929.19(B)(5); Marsy's Law; sufficiency.*

***Appellant's conviction was supported by sufficient evidence. Sufficiency tests the adequacy of the evidence. Where the victim testified defining the items that were stolen, that testimony itself was sufficient, if believed, to establish the element of the value of the items stolen.***

***Appellant failed to establish ineffective assistance of counsel with respect to counsel's failure to object to the introduction of evidence in violation of the best evidence rule, because the victim's testimony was sufficient to establish the fact. The best evidence rule did not apply, and the admission was harmless beyond a reasonable doubt.***

***Appellant failed to establish ineffective assistance of counsel with respect to counsel's failure to object to the amount of restitution and the failure to consider his ability to pay. The amount of restitution was supported by a preponderance of the evidence, additionally, counsel's may not have objected to avoid the imposition of a greater fine based on the testimony presented at trial. Secondly, Marsy's Law supersedes consideration of a defendant's ability to pay, accordingly, counsel did not err when he failed to object.***

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**113363** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
THOMAS WILLIAMS v MICHELLE HUNG, ET AL.

Affirmed.

Frank Daniel Celebrezze, III, J., Michelle J. Sheehan, P.J., and Emanuella D. Groves, J., concur.

**KEY WORDS:** *Sanctions; Civ.R. 11; Civ.R. 45; attorney fees; waiver; reasonableness of fees; sworn evidence; fee bills; disqualification order; mootness; ability to pay.*

**Judgment affirmed.** *The court's award of sanctions in the form of attorney fees to the plaintiff and two nonparties is affirmed where the record demonstrates that the sanctioned party contested the reasonableness of the fees and the trial court rejected the sanctioned party's arguments and did not abuse its discretion in rejecting the sanctioned party's arguments. Additionally, the sanctioned party's attempt to dispute fees stemming from his disqualification as counsel are moot because no fees were awarded stemming from the disqualification and the trial court did not err in failing to consider the sanctioned party's ability to pay where such evidence was not introduced before the trial court made its decision, despite numerous opportunities to present such evidence.*

**113385** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v ANTHONY D. TAYLOR, JR.

**113386** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v ANTHONY D. TAYLOR, JR.

**113387** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v ANTHONY D. TAYLOR, JR.

Affirmed.

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

**KEY WORDS:** *Discretionary transfer; bindover; amenability; R.C. 2152.12; guilty plea; misdemeanor; plain error; Crim.R. 52(B).*

**Judgment affirmed.** *Defendant argues that his convictions and bindover should be reversed and remanded to the juvenile court because the juvenile court (1) abused its discretion when it determined that he was not amenable to treatment in the juvenile court system and (2) committed plain error when it transferred misdemeanor offenses for adult criminal prosecution and accepted waivers premised on a misstatement of law. Because the record provides a rational and factual basis to support the juvenile court's amenability decision, we cannot say that the juvenile court abused its discretion by transferring the defendant's cases to the general division. Assuming arguendo that the juvenile court erred in transferring the defendant's misdemeanor charges and/or failing to*

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(Case 113387 continued)

**distinguish them from his felony charges in its colloquy, the defendant has not demonstrated how those errors impacted his convictions. Therefore, we decline to find plain error.**

**113507** PROBATE COURT DIVISION F Civil C.P.-Juv, Dom, Probate  
SHEILA M. FRANCATI, ET AL. v CARLOS FUENTES, ET AL.

Affirmed.

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

**KEY WORDS: Civ.R. 12(B)(1), subject-matter jurisdiction, probate court, definition and creation of trust within deed.**

***Plaintiffs, members of a homeowners association, filed declaratory judgment action over dispute with actions taken by the members and of the board of directors of the homeowners association. Plaintiffs did not provide evidence the probate court had subject-matter jurisdiction over the claims where they claimed a trust was created by a series of deeds and other documents spanning decades or provide evidence the claims concerned the administration of an estate. As such, the probate court correctly determined it did not have subject-matter jurisdiction over the action.***

**113566** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v ROGER FINKLEA

Affirmed.

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

**KEY WORDS: Mistrial; juror misconduct; abuse of discretion.**

***The trial court did not abuse its discretion when it denied appellant's motion for a mistrial. The court did not find that there had been juror misconduct when one juror allegedly overheard another juror make a comment that she had already made her mind up about appellant's guilt or innocence but that person denied making the comment and the other jurors in her presence denied hearing the comment. Moreover, that juror was excused mid-trial for personal reasons and did not take part in deliberations. Therefore, appellant cannot show that any alleged statement materially affected his substantial rights.***

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**113568** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
STATE OF OHIO v JAVONTE L. HODGES

Affirmed.

Lisa B. Forbes, P.J., Eileen T. Gallagher, J., and Frank Daniel Celebrezze, III, J., concur.

**KEY WORDS:** *Petition for postconviction relief; jurisdiction; timeliness; res judicata.*

*The trial court did not have jurisdiction to consider defendant's postconviction-relief petition because it was untimely and did not meet the criteria in R.C. 2953.23(A)(1). Furthermore, the arguments raised in the petition were barred by res judicata because they could have been raised in the defendant's direct appeal.*

**113591** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v DEMARKCO JOHNSON

Affirmed.

Eileen T. Gallagher, P.J., Mary J. Boyle, J., and William A. Klatt, J.,\* concur.

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

**KEY WORDS:** *Jury Instruction; affirmative defense; entrapment; evidence; harmless error; bribery; manifest weight.*

*Trial court properly refused to provide a jury instruction on the affirmative defense of entrapment where the evidence did not support an entrapment defense.*

*Trial court's decision not to instruct a witness to stop using the words "bribe" or "bribery payment" was not improper because the words "bribe" and "bribery payment" are commonly understood and did not amount to legal conclusions.*

*Defendant's bribery convictions were not against the manifest weight of the evidence where video evidence clearly showed the defendant accepting cash in exchange for fake police reports.*

**113690** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v DEANGELO CAMPBELL

Affirmed.

William A. Klatt, J.,\* Eileen T. Gallagher, P.J., and Mary J. Boyle, J., concur.

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

**KEY WORDS:** *Consecutive sentences; R.C. 2929.14; clear and convincing.*

**The trial court did not err in imposing consecutive sentences where the trial court made the requisite findings pursuant to R.C. 2929.14 and the findings were not clearly and convincingly not supported by the record.**

**113696** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
CITY OF OLMSTED FALLS v TED BOWMAN

Affirmed.

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

**KEY WORDS:** *Motion to compel; motion for protective order; attorney-client privilege; foreclosure; liens; summary judgment; res judicata; R.C. 2329.02; R.C. 2323.07.*

**Judgment affirmed. The trial court properly granted the appellee's motion for a protective order and denied the appellant's motion to compel. The subject information was not discoverable because it was protected under the attorney-client privilege.**

**The trial court properly granted summary judgment in favor of the appellee. The appellee obtained two judgments from courts of general jurisdiction against the appellant. In accordance with R.C. 2329.02, the appellee recorded the judgments as liens against appellant's property located in appellee's jurisdiction. The appellee initiated this foreclosure action under R.C. 2323.07. The facts surrounding the judgments appellee obtained have been extensively litigated and appellant's attempts to contest the judgments are barred under the doctrine of res judicata. There were no genuine issues of material fact to be litigated in this foreclosure action.**

**113784** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v BRANDEN HAMRICK

Affirmed and remanded.

Eileen T. Gallagher, P.J., Mary J. Boyle, J., and William A. Klatt, J.,\* concur.

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

**KEY WORDS:** *Consecutive; sentence; clear and convincing; findings; record; criminal history; seriousness; disproportionate; course of conduct.*

**The trial court made the necessary findings to impose consecutive sentences and the findings are supported by the record.**

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**113855** JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate

IN RE: J.H.

Affirmed.

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

**KEY WORDS:** *Permanent custody; best interest; clear and convincing evidence; manifest weight of the evidence; continuance; case plan; reunification.*

*Juvenile court's judgment granting permanent custody of child to CCDCFS was supported by the manifest weight of the evidence where Mother made no effort to comply with the agency's case plan for reunification.*

*Juvenile court's denial of Mother's day-of-trial motion for continuance was not an abuse of discretion where Mother failed to provide a legitimate reason for the requested continuance, Mother had not engaged in agency services, and the continuance would have inconvenienced many other individuals and the court.*

**114102** JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate

IN RE L.A.

Affirmed.

Michelle J. Sheehan, J., Eileen A. Gallagher, P.J., and Lisa B. Forbes, J., concur.

**KEY WORDS:** *Permanent custody; best interest of the child; agency's efforts.*

*Our review indicates the trial court's findings under R.C. 2151.414(E) are supported by clear and convincing evidence in the record and, therefore, the trial court appropriately found that L.A. could not "be placed with either parent within a reasonable time or should not be placed with either parent." R.C. 2151.414(E). The trial court also properly considered the statutory factors in determining that an award of permanent custody is in the child's best interest. Accordingly, the trial court's decision granting permanent custody to CCDCFS is affirmed.*