

## CASE DECISION LIST

February 13, 2025

**113496** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
REDROCK FINANCIAL, ET AL. v ANTHONY HOLLAND

Dismissed.

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

**KEY WORDS:** *Final appealable order; consolidated cases; civil procedure; dismissed.*

*Appeal dismissed for want of a final appealable order. The consolidated cases remain partially unresolved. Pursuant to Ohio case law, this court does not yet have jurisdiction to consider appellant's appeal.*

**113752** PROBATE COURT DIVISION F Civil C.P.-Juv, Dom, Probate  
SUSAN A. FIGGIE v BETSY FIGGIE, ET AL.

**113753** PROBATE COURT DIVISION F Civil C.P.-Juv, Dom, Probate  
HARRY E. FIGGIE, IV, ET AL. v BETSY FIGGIE, ET AL.

Affirmed.

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

**KEY WORDS:** *Summary judgment; fraud; statute of limitations; time barred; R.C. 2305.09(C); R.C. 1707.43(B); sale of stock; estate; unjust enrichment; civil conspiracy; constructive trust.*

*Judgment affirmed. Plaintiffs' fraud claim that their grandfather allegedly schemed to create the illusion of a solicited offer to buy stock under the false premise that their father's trust was insolvent and in dire need of liquidity to pay taxes and expenses, and subject to potential third-party buyers for the sole purpose of redeeming shares at below fair market value, was barred by the four-year statute of limitations set forth in R.C. 2305.09(C) for actions alleging fraud and the five-year statute of limitations for the sale of securities under R.C. 1707.43(B). Plaintiffs failed to demonstrate that they did not discover the fraud until 2018, as they alleged, because plaintiffs were parties in a 2001 counterclaim filed by the executor of their father's trust, where the executor sought a court order to sell the shares of defendant-company's stock held by the trust and a September 2001 letter from plaintiffs' attorney to the trustee stating that plaintiffs had no objection to the redemption of the shares of the stock held in the trust pursuant to the terms of the share pursuant agreement. Furthermore, the trust began receiving distributions in 2001 for the purchase of the CRC stock redemption, which continued annually until the year 2010. Additionally, plaintiffs had access to all trust statements, documents, and*

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(Case 113753 continued)

correspondence as early as 2009, and one of the plaintiffs was appointed as his sister's guardian in 2006, which granted him the right to full access to documents detailing the assets of the trust on her behalf. Based upon the foregoing, plaintiffs could have discovered, in the exercise of reasonable diligence, any alleged fraud by defendant thereby barring their claim for fraud. Because plaintiffs failed to establish their fraud claim, plaintiffs' civil-conspiracy claim fails as a derivative claim that cannot be maintained without fraud. Likewise, the unjust-enrichment claim fails because plaintiffs failed to establish that the transaction was fraudulent, and plaintiffs' constructive-trust claim fails because they failed to establish the elements of fraud, civil conspiracy, and unjust enrichment.

**113819** DOMESTIC RELATIONS F Civil C.P.-Juv, Dom, Probate  
PAMELA M. MILLS v PHILIP W. MILLS

Affirmed.

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

**KEY WORDS:** *Divorce; spousal support; modification; change in circumstances; retirement; magistrate's decision; abuse of discretion; contempt; attorney fees; R.C. 3105.18.*

**Judgment affirmed.** *The trial court did not abuse its discretion when it modified Husband's spousal-support obligation to \$1,800 per month. Husband voluntarily retired at the age of 66 years old due to his declining health. This constitutes a substantial change in circumstances that makes the existing award of \$4,000 per month unreasonable, given his estimated post-retirement income reduced to \$0 from approximately \$260,000. The court considered all the R.C. 3105.18 factors and made findings for each, ultimately explaining how they impacted the decision to modify Husband's spousal-support obligation, including the fact that Husband voluntarily elected to not receive any retirement benefits because current wife pays all his expenses. Husband was in contempt of court for deciding to stop paying spousal support and is \$60,026.13 in arrears. The court did not abuse its discretion when it denied Wife's motion for attorney fees but awarded Wife \$3,000 in fees associated with the contempt finding.*

**113905** COMMON PLEAS COURT E Civil C.P.-Not Juv, Dom Or Prob  
TONY D. DOVE v CITY OF LAKEWOOD, ET AL.

Affirmed.

Michelle J. Sheehan, P.J., Eileen T. Gallagher, J., and Deena R. Calabrese, J., concur.

**KEY WORDS:** *Summary judgment; race discrimination; failure to*

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**promote; McDonnell Douglas's burden-shifting framework; prima facie case; legitimate, nondiscriminatory reason for an employer's action; pretext.**

**Plaintiff claims he has superior qualifications for the subject position than the Caucasian candidate. Our review of the record indicates plaintiff has presented evidence of his experience and qualifications to establish a prima facie case of failure to promote. Because the City of Lakewood produced evidence demonstrating a legitimate, nondiscriminatory reason for its employment decision, the burden shifts to plaintiff to demonstrate, by a preponderance of evidence, that Lakewood's reason is pretext for discrimination. For relative qualifications to establish triable issues of fact as to pretext, plaintiff must show either (1) plaintiff was a plainly superior candidate, such that no reasonable employer would have chosen the latter applicant over the former, or (2) plaintiff was as qualified, if not better qualified than the successful applicant, and the record contains other probative evidence of discrimination. Having reviewed the record, we cannot conclude plaintiff has created triable issues of fact as to pretext and therefore affirm the trial court's judgment.**

**113932** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
NATIONSTAR MORTGAGE LLC v D'ANDRE L. JESSIE, ET AL.

Affirmed.

Eileen T. Gallagher, J., Michelle J. Sheehan, P.J., and Deena R. Calabrese, J., concur.

**KEY WORDS: Motion to enforce settlement agreement; issue of contract law; breach of settlement agreement; performance by nonbreaching party.**

**Appellants cannot demonstrate the elements of breach of a settlement agreement because they themselves did not perform under the agreement. The trial court did not err in denying the motion to enforce settlement agreement.**

**113935** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v DAVID HUMPHRIES

Affirmed in part, reversed in part, and remanded.

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

**KEY WORDS: Crim.R. 11 plea hearing; Crim.R. 32.1 motion to withdraw guilty plea; felony sentencing; postrelease control notification; the Reagan Tokes Law notification.**

**Defendant's convictions of felonies including aggravated robbery,**

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(Case 113935 continued)

**felonious assault and having weapons while under disability, with various specifications, are affirmed following his guilty plea. His plea was not coerced by the trial court. The court did not err by denying the defendant's motion to withdraw his plea, even though it was made immediately prior to the court imposing a prison sentence, because the defendant did not articulate a reasonable legitimate basis for withdrawing his plea.**

**Defendant's 12-15-year indefinite prison sentence is reversed because the court failed to properly advise the defendant of the mandatory statutory notifications at his sentencing hearing under R.C. 2929.19(B)(2)(f) (regarding postrelease control) and R.C. 2929.19(B)(2)(c) (regarding the Reagan Tokes Law). Defendant's sentence is reversed and this case is remanded for the limited purpose of holding a resentencing hearing.**

<b>113941</b>	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v MICHAEL WEBB			

Affirmed.

Michelle J. Sheehan, P.J., Michael John Ryan, J., and William A. Klatt, J.,\* concur.

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

**KEY WORDS: Patient abuse; plain error; Crim.R. 52(B); sufficiency; knowingly; physical harm.**

***Defendant was convicted after a jury trial of patient abuse. Defendant asserted on appeal that the evidence was insufficient to support two elements of patient abuse: Mens rea of knowingly and whether the victim suffered physical harm as a result. Defendant's conviction is based on sufficient evidence where the State introduced evidence of video surveillance of the incident, training defendant had received, and testimony concerning improper restraint techniques utilized by the defendant. Further, since defendant's defense at trial was that the evidence was insufficient to support the elements for patient abuse, he was precluded from raising a self-defense claim. As such, no plain error occurred when the jury was not instructed as to self-defense.***

<b>113945</b>	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v DA'VEON PARKER			

Affirmed.

Deena R. Calabrese, J., Michael John Ryan, P.J., and Anita Laster Mays, J., concur.

**KEY WORDS: Presentence motion to withdraw guilty plea; motion to continue sentencing; Crim.R. 32.1.**

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(Case 113945 continued)

**Judgment affirmed. The trial court did not abuse its discretion when it denied appellant's presentence oral motions to withdraw his guilty plea and for a continuance of the sentencing hearing.**

**113947** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v BRANDY STOVER

Affirmed.

Eileen A. Gallagher, A.J., Michelle J. Sheehan, J., and Kathleen Ann Keough, J., concur.

**KEY WORDS:** *Felony sentencing; consecutive sentences; R.C. 2929.14(C)(4); R.C. 2953.08(G)(2); R.C. 2953.08(F); endangering children.*

**Appellant appeals her conviction arguing the court's proportionality finding for the consecutive sentences in this case was not supported by clear and convincing evidence. We disagree. The record was overflowing with evidence to support that the consecutive sentences are not disproportionate to the seriousness of appellant's conduct and the danger she posed to the public and her children. Judgment affirmed.**

**113996** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v FREDERICK HAWKINS

Affirmed.

Anita Laster Mays, J., Emanuella D. Groves, P.J., and Kathleen Ann Keough, J., concur.

**KEY WORDS:** *Crim.R. 43(A); GPS monitoring; sentence.*

**Judgment affirmed. The trial court informed the defendant of the length of time he would be subject to both community control and GPS monitoring in open court and on the record during the sentencing hearing. Therefore, the imposition of GPS monitoring in the sentencing entries was not contrary to law.**

**114055** BEREA MUNI. G Civil Muni. & City  
RANDY GILLES v ANGELO CASTELLI

Affirmed.

William A. Klatt, J.,\* Michelle J. Sheehan, P.J., and Michael J. Ryan, J., concur.

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

**KEY WORDS:** *Pro se; App.R. 9; transcript; presume validity of lower court's proceedings.*

**Where appellant failed to provide the court of appeals with a transcript or appropriate substitute as permitted under App.R. 9(C) or (D), this court had no alternative but to presume the validity of the lower court's proceedings and affirm its decision.**

**114095** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v DERRICK MILLER

Affirmed.

Anita Laster Mays, J., and William A. Klatt, J.,\* concur; Eileen T. Gallagher, P.J., concurs in judgment only.

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

**KEY WORDS:** *Manifest weight of the evidence.*

**The appellant's conviction was not against the manifest weight of the evidence.**

**114132** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
SABRINA MITCHELL v DIRECTOR, OHIO DEPT. OF JOB AND FAMILY SERVICES

Affirmed.

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

**KEY WORDS:** *Unemployment compensation; fraud; overpayment; waiver; repayment; corrected remuneration.*

**Unemployment Compensation Review Commission's decision requiring claimant to repay benefits was affirmed where the one overpayment resulted from claimant's failure to disclose new employment while she was receiving unemployment-compensation benefits and the other overpayment was not the result of fraud but did not fall within the two statutorily prescribed exceptions to repayment.**

**114210** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v CLARENCE I. WILLIAMS, III

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Affirmed.

Kathleen Ann Keough, J., Eileen A. Gallagher, A.J., and Michelle J. Sheehan, J., concur.

**KEY WORDS:** *Community-control sanctions violation; medical marijuana; res judicata; revocation of community control.*

**Judgment affirmed. The trial court did not err in finding appellant in violation of his community-control sanctions after testing positive for marijuana after the trial court did not allow appellant permission to use medical marijuana and appellant was warned several times that a positive test is a probation violation. Williams was not criminalized or convicted for testing positive for marijuana; he was found in violation of his community-control sanctions.**

<b>114294</b>	JUVENILE COURT DIVISION	F	Civil C.P.-Juv, Dom, Probate
IN RE: T.S.			

<b>114301</b>	JUVENILE COURT DIVISION	F	Civil C.P.-Juv, Dom, Probate
IN RE: P.S.			

Affirmed.

Anita Laster Mays, J., and Emanuella D. Groves, J., concur; Lisa B. Forbes, P.J., concurs in judgment only.

**KEY WORDS:** *Permanent custody; manifest weight of the evidence; R.C. 2151.414(E); best interest of the child.*

**The trial court's decision to grant permanent custody to CCDCFS is not against the weight of the evidence under R.C. 2151.414(E) and is in the best interests of the children.**

<b>114366</b>	COMMON PLEAS COURT	E	Civil C.P.-Not Juv, Dom Or Prob
WVJP 2021-4, LP v LOEF, LTD.			

Reversed and remanded.

William A. Klatt, J.,\* Emanuella D. Groves, P.J., and Sean C. Gallagher, J., concur.

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

**KEY WORDS:** *Final appealable order; motion to appoint a receiver; R.C. 2505.02; R.C. 2735.01.*

**The denial of plaintiff-appellant's motion to appoint a receiver amounted to an abuse of discretion where the mortgagor consented to the appointment of a receiver in the mortgage documents, the mortgagee met the statutory requirements to appoint a receiver, and the mortgagor did not oppose the motion for appointment.**