

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

Page: 1 of 5

January 16, 2025

113409 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
AUTOVEST, LLC v ANDREW HICKS

Affirmed and remanded.

Anita Laster Mays, J.; Sean C. Gallagher, J., concurs (with separate concurring opinion); Kathleen Ann Keough, P.J., dissents (with separate opinion).

KEY WORDS: *Motion to stay proceedings; compel arbitration; assignment of rights; waiver.*

The trial court did not err when it granted the appellee's motion to stay proceedings and compel arbitration because the appellant and appellee agreed to arbitration in their contract. The appellee did not waive its right to arbitrate because it did not extensively participate in the litigation of the case before filing its motion.

113512 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v DASHAWN REEDER

Affirmed.

Eileen T. Gallagher, J.; Kathleen Ann Keough, P.J., concurs in judgment only (with separate opinion); Sean C. Gallagher, J., dissents (with separate opinion).

KEY WORDS: *Plea; no-contact order, felony sentencing; invited error.*

Imposition of both a no-contact order and a prison term for the same offense did not rise to the level of plain error where the defendant received benefits from a plea agreement in which he agreed to the hybrid sentences.

113594 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v DUANE JACKSON

Affirmed.

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

KEY WORDS: *Sufficiency, manifest weight, circumstantial evidence, inference stacking, aiding and abetting, complicity, R.C. 2923.03(A)(2), felony murder, R.C. 2903.02(B), mens rea, knowingly, R.C. 2901.22(B), motive, hearsay, Evid.R. 803(3), abuse of discretion, testimonial, nontestimonial, Confrontation Clause, "objective*

CASE DECISION LIST

(Case 113594 continued)

witness” test, Crim.R. 52(A), harmless error, Crim.R. 52(B), plain error, ineffective assistance of counsel, jury instructions, Crim.R. 30, waiver, Bruton, cumulative error, consecutive sentences, R.C. 2929.14(C)(4), findings.

Judgment affirmed. There was sufficient evidence that appellant aided and abetted in the drive-by shooting that resulted in the death of a 13-year-old child, and appellant’s convictions were not against the manifest weight of the evidence. Circumstantial evidence carries the same weight as direct evidence. The Ring doorbell camera, as well as cell phone data, traffic cameras, and license plate readers established that the appellant and the codefendant were together at the time and location of the murder. The jury instructions were proper. Trial counsel was not ineffective, and the trial court made sufficient findings to impose consecutive sentences.

113663 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v LEROY ANTHONY BILLIPS

Affirmed.

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

KEY WORDS: *Sufficiency; manifest weight; circumstantial evidence; inference stacking; aiding and abetting; complicity; R.C. 2923.03(A)(2); felony murder; R.C. 2903.02(B); mens rea; hearsay; Evid.R. 803(3); abuse of discretion; nontestimonial statements; Confrontation Clause; Crim.R. 52(A), harmless error; Crim.R. 52(B); plain error; ineffective assistance of counsel; cumulative error; consecutive sentences; R.C. 2929.14(C)(4), findings.*

Judgment affirmed. There was sufficient evidence that appellant aided and abetted in the drive-by shooting that resulted in the death of a 13-year-old child. Cell phone data, traffic cameras, license plate readers, and photographs all tied appellant to the crimes. His convictions were not against the manifest weight of the evidence, there was no cumulative error, and his attorney was not ineffective for failing to object to unrecorded sidebar conferences. The court considered appellant’s young age in sentencing. The trial court made all the requisite findings to support consecutive sentences.

113737 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v RODNEY WILLIAMS

Affirmed.

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

KEY WORDS: *Self-defense; R.C. 2901.05(B)(1); manifest weight;*

CASE DECISION LIST

(Case 113737 continued)

firearm specifications; merger; *State v. Bollar, 2022-Ohio-4370*.

Judgment affirmed. The jury's rejection of Williams' self-defense claim is not against the manifest weight of the evidence; a jury could properly conclude beyond a reasonable doubt that Williams did not act in self-defense. Moreover, Williams' firearm specifications did not merge for sentencing purposes pursuant to binding precedent set forth in *State v. Bollar, 2022-Ohio-4370*.

113757	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v AMOUD REGISTER			

Affirmed.

Anita Laster Mays, J.; Mary J. Boyle, J., concurs; Kathleen Ann Keough, P.J., concurs in judgment only.

KEY WORDS: Manifest weight of the evidence; statements against self-incrimination; Evid.R. 403(B) evidence; lay person testimony; sentencing errors.

The appellant's convictions were not against the manifest weight of the evidence. The trial court did not permit self-incriminating statements against the appellant during trial. The trial court did not err in permitting testimony concerning appellant's acts at trial. The trial court did not err in permitting the case worker's testimony about her personal experience during trial. The trial court did not consider uncharged acts by the appellant for the purposes of sentencing.

113799	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v KRISTEL CANDELARIO			

Affirmed.

Sean C. Gallagher, J., Eileen A. Gallagher, A.J., and William A. Klatt, J.,* concur.

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

KEY WORDS: Aggravated murder; guilty plea; ineffective assistance of counsel; conflict of interest.

Affirmed. The defendant's guilty plea to aggravated murder for causing the death of her infant daughter was not entered based on ineffective assistance of one of the two retained counsel representing her during the criminal proceedings.

CASE DECISION LIST

113871 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
DISCOVER BANK v ASIA N. WYLEY

Affirmed.

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

KEY WORDS: *Action on an account; credit card; balance due; unauthorized transactions; summary judgment; burden of proof.*

Trial court properly granted summary judgment in favor of the bank on its action on an account for an unpaid balance on a credit card account. Bank satisfied its burden of demonstrating that no genuine issue of material fact. Appellant failed to satisfy her reciprocal burden of identifying specific facts in the record demonstrating a material issue of fact for trial, i.e., what transactions were unauthorized, dispute of those transactions with the bank, or a report that her credit card was lost, stolen, or used by an unauthorized individual.

113890 LYNTHURST MUNI. G Civil Muni. & City
JEFF DI FIORE v AMY MARIE HIRTER

Affirmed.

Sean C. Gallagher, J., Eileen A. Gallagher, A.J., and William A. Klatt, J.,* concur.

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

KEY WORDS: *Small claims; landlord; tenant; utility bill; security deposit; deduction; affirmative defense; offset; damages; civil rules; R.C. Ch. 1925; R.C. 1925.16; Civ.R. 1(C)(4); R.C. 5321.16(B).*

The lower court did not err in determining the defendant-tenant was entitled to an offset against the damages awarded to the plaintiff-landlord for an unpaid utility bill from an amount that was improperly withheld from a security deposit. R.C. Ch. 1925 does not contemplate the filing of an answer, and an offset defense could be asserted at trial. The amount owed for the utility bill should have been applied as a deduction from the security deposit in accordance with R.C. 5321.16(B).

114117 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
BRENDA WRIGHT v CUYAHOGA METROPOLITAN HOUSING AUTHORITY, ET AL.

Affirmed and remanded.

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

KEY WORDS: *Political subdivision immunity; negligence; R.C. 2744.02.*

Trial court properly denied appellant's motion for summary judgment based on political subdivision immunity when appellee met her burden of establishing that there remained a genuine issue of material fact regarding whether appellant breached a duty of care.

114265 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: E.B.

Affirmed.

Michael John Ryan, J., Mary J. Boyle, P.J., and Anita Laster Mays, J., concur.

KEY WORDS: *Permanent custody; case plan; failure to remedy; 12 out of 22 months; substance abuse; mental health; sufficiency of the evidence; manifest weight of the evidence; best interest.*

Judgment affirmed. The trial court did not err in denying appellant's motion to continue. Appellant requested the trial court to continue the permanent custody hearing because the guardian ad litem's report was untimely filed. Because the guardian ad litem was available for cross-examination and the report did not raise any new or surprising information, appellant was unable to show that she was prejudiced by the denial.

The trial court did not err when it granted permanent custody of the child to CCDCFS; its decision was supported by sufficient evidence and was not against the manifest weight of the evidence. The child had been in custody for more than 12 out of 22 months and a grant of permanent custody was in the best interest of the child. Appellant completed portions of her case plan, which included housing, employment, mental health, substance abuse, and anger management but did not benefit from some of the services she received.