

CASE DECISION LIST

January 23, 2025

113501 CLEVELAND MUNI. C Criminal Muni. & City
STATE OF OHIO/ CITY OF CLEVELAND v ST. ANTHONY CHURCH

Affirmed.

Emanuella D. Groves, J., and Kathleen Ann Keough, P.J., concur; Mary J. Boyle, J., concurs in judgment only.

KEY WORDS: *Community control; res judicata; Crim.R. 36; Cleveland Cod.Ord. 367.12(a).*

Judgment affirmed. St. Anthony Church (“SAC”) is a fictitious name and there is no legal distinction between Albert Thrower and SAC. Accordingly, Thrower was a party to the underlying proceedings. SAC’s arguments challenging the blanket effect of the housing court’s community-control order established in judgments prior to the appealed community-control violation and nunc pro tunc entries are barred by res judicata. Moreover, the housing court’s nunc pro tunc entry complied with Crim.R. 36. Finally, the housing court did not err in finding that SAC violated community control for its failure to comply with Cleveland Cod.Ord. 367.12(a), amongst other reasons.

113650 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
WASSIM EL-HITTI, ET AL. v AMERICARE KIDNEY INSTITUTE, LLC, ET AL.

Affirmed and remanded.

Anita Laster Mays, J., Kathleen Ann Keough, P.J., and Michael John Ryan, J., concur.

KEY WORDS: *Motion to bifurcate; compensatory and punitive damages; breach of fiduciary claim; unfair-competition claim.*

The trial court did not err when it denied the appellants’ motion to bifurcate the compensatory and punitive damages portions of the breach-of-fiduciary claims. The trial court did not err when it denied the appellants’ motion to bifurcate the compensatory and punitive damages portions of the unfair-competition claims and decided to hold one hearing.

113852 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v ISAIAH CARSON

CASE DECISION LIST

Affirmed.

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

KEY WORDS: *Manifest weight; sufficiency; self-defense.*

State met its burden of production refuting appellant's claim of self-defense where the evidence established that appellant instigated the situation that led to the assaults.

Appellant's conviction for attempted felonious assault was supported by sufficient evidence where the record established that he knowingly hit the victim and the harm she sustained was reasonably foreseeable. Appellant's convictions for assault and attempted felonious assault were supported by the weight of the evidence where it was undisputed that appellant hit both victims and that the second victim lost consciousness after being hit.

113883 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: N.H.

Reversed and remanded.

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

KEY WORDS: *Mandatory bindover; R.C. 2512.10; R.C. 2512.12.*

Juvenile court erred when it denied the State's request for mandatory bindover where the State established probable cause that appellee was 16 years old at the time of the offenses, had committed aggravated robbery, and did so with a firearm on or about his person and used the firearm in the commission of the offense.

113927 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v ALPHONSO JONES

Affirmed.

Mary J. Boyle, J., Eileen A. Gallagher, A.J., and Eileen T. Gallagher, J., concur.

KEY WORDS: *Manifest weight; self-defense.*

Judgment affirmed. The State proved beyond a reasonable doubt that appellant was at fault in creating the affray and did not have reasonable grounds to believe or an honest belief that he was in imminent danger of bodily harm. Therefore, appellant did not act in self-defense. Accordingly, appellant's convictions for felony-murder, felonious assault, and discharging a firearm on or near prohibited premises were not against the manifest weight of the evidence.

CASE DECISION LIST

113989 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
DANEEN MADARAS v APPLEBEE'S NEIGHBORHOOD GRILL & BAR, ET AL.

Affirmed.

Lisa B. Forbes, J., Kathleen Ann Keough, P.J., and Michelle J. Sheehan, J., concur.

KEY WORDS: *Slip and fall; premises liability; open and obvious; unnatural accumulation; black ice; summary judgment; actual or constructive notice.*

The judgment of the trial court, granting summary judgment in favor of defendant-appellee Apple Ohio LLC, is affirmed. The undisputed facts in the record indicate that the icy patch that plaintiff-appellant Madaras slipped on was an open-and-obvious condition that did not constitute an unnatural accumulation. Moreover, the record does not indicate that the patch of ice was "substantially more dangerous" than Madaras should have reasonably anticipated, and even so, Applebee's did not have actual or constructive notice of such condition.

114060 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
UNIVERSITY SCHOOL v M.F.

Affirmed.

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

KEY WORDS: *Contract; impossibility; summary judgment; record.*

University School was entitled to summary judgment on the debt owed under the enrollment contracts. The record showed there was a valid contract, M.F. breached the contract, and M.F. did not show any genuine issues of material fact remained where the record did not support M.F.'s defense of impossibility where she did not show an unforeseen event occurred prior to the date she had to cancel the contracts.

114065 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: I.D.

114066 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: S.D.

114067 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: G.D.

CASE DECISION LIST

114068 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: D.R.D.

Affirmed and remanded.

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

KEY WORDS: *Allocation of parental rights and responsibilities; guardian ad litem report.*

Juvenile court did not abuse its discretion in allocating parental rights and responsibilities; the court considered all relevant factors in determining the best interest of the children for parenting time with each parent. For everyone's best interests, a guardian ad litem should submit their written report in accordance with the rules of court.

114134 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v ARIF S. MAJID

114236 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v ARIF S. MAJID

Affirmed.

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

KEY WORDS: *Irregular motion; petition for postconviction relief; untimely; void; voidable; limited remand; appellate court mandate; res judicata.*

Judgments affirmed. The trial court properly treated the defendant's motion, made years after his direct appeal, as a petition for postconviction relief. The petition was untimely and not subject to the timeliness exception under R.C. 2953.23(A)(1). The trial court's resentencing judgment was not void. Further, because the trial court had jurisdiction over the case and the defendant, any potential sentencing error would be deemed voidable, and a challenge to a voidable sentence via a postconviction petition is impermissible.

The trial court complied with the appellate court's mandate for the limited remand. The mandate was not for a de novo resentencing hearing; rather, it was for the limited purpose of resentencing the defendant as to each of the firearm specifications.

The defendant's assignments of error alleging various trial errors have no relation to the judgments appealed from and in any event are barred under the doctrine of res judicata.

CASE DECISION LIST

114198 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
IMANI HOME HEALTH CARE LLC, ET AL. v VISIONARY GROUP, LLC

Affirmed.

Kathleen Ann Keough, P.J., and Michelle J. Sheehan, J., concur; Lisa B. Forbes, J., concurs in judgment only (with separate opinion).

KEY WORDS: *Motion to vacate; default judgment; service; void; abuse of discretion.*

Because service of process was never completed on defendant, the default judgment granted against the defendant was void, and the trial court did not abuse its discretion in granting defendant's motion to vacate the void judgment.

114250 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: K.F.

Affirmed.

Eileen T. Gallagher, J., Eileen A. Gallagher, A.J., and Mary J. Boyle, J., concur.

KEY WORDS: *Motion to continue; Juv.R. 23; Juv.R. 35; motion for continuance made on day of hearing; abuse of discretion; good cause; child-support obligation; failure to appear; waive right to present evidence; imputation of income; voluntarily unemployed or underemployed; R.C. 3119.01; evidence need not be presented for each factor; upward deviation; R.C. 3119.23; special and unusual needs of child.*

The trial court did not abuse its discretion in denying Father's oral motion for continuance on the day of the hearing or in basing its ruling solely on Mother's testimony when Father failed to appear and present evidence. The trial court also did not abuse its discretion by imputing income to Father because it found that he was voluntarily unemployed or underemployed or by upwardly deviating from the child support worksheet based upon the cost of certain speech-therapy needs of the child.