

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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July 31, 2025

114178	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v LAVANDA T. SMILEY			

Affirmed.

Mary J. Boyle, J., Emanuella D. Groves, P.J., and Sean C. Gallagher, J., concur.

KEY WORDS: *Ineffective assistance of counsel; preindictment delay; due process; actual prejudice; failure to object; Confrontation Clause; Sixth Amendment; investigation; cross-examination; Smith v. Arizona; testing analyst; testifying analyst; statements; hearsay; testimonial; harmless error; plain error; Evid.R. 803(4); social worker testimony; manifest weight.*

Affirmed. *Appellant's counsel was not ineffective because (1) a motion for preindictment delay would have been futile; (2) the failure to object to hearsay evidence was harmless error; and (3) counsel's cross-examination falls within the realm of trial strategy. Appellant's convictions were not against the manifest weight of the evidence.*

114281	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v JOHN BRADLEY, JR.			

Affirmed in part, reversed in part, and remanded.

Lisa B. Forbes, P.J., Eileen T. Gallagher, J., and Michael John Ryan, J., concur.

KEY WORDS: *Motion to withdraw guilty plea; Reagan Tokes Law; reopen appeal; R.C. 2929.19(B)(2)(c); notifications; advisements; sentencing hearing; vacate; hearing; presentence motion to withdraw; postsentence motion to withdraw; manifest injustice.*

Affirmed in part, reversed in part, and remanded. *The trial court abused its discretion in denying defendant's motion to withdraw his guilty plea without first holding a hearing because the defendant's sentence had been vacated on appeal and, therefore, the motion should have been treated as a presentence motion to withdraw.*

114291	COMMON PLEAS COURT	E	Civil C.P.-Not Juv,Dom Or Prob
ASSUNTA ROSSI PERSONALTY REVOCABLE LIVING TRUST, ET AL. v D.J. KEEHAN, ET AL.			

Affirmed.

William A. Klatt, J.,* and Deena R. Calabrese, J., concur; Sean C. Gallagher, P.J., concurs in

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judgment only (with separate opinion).

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

KEY WORDS: *Motion for sanctions; Civ.R. 11; R.C. 2323.51; abuse of discretion; motion to substitute.*

The trial court did not abuse its discretion in denying Appellants' second motion for sanctions where the conduct at issue did not appear to be sanctionable under the standards of Civ.R. 11 or R.C. 2323.51. Because the trial court's denial of the motion for sanctions was not an abuse of discretion, the argument challenging the trial court's resolution of the motion to substitute is moot.

114370	GARFIELD HTS. MUNI.	G	Civil Muni. & City
FIRST REHAB FUNDING, LLC v ERICA MILTON			

Affirmed.

Michelle J. Sheehan, P.J., Sean C. Gallagher, J., and Anita Laster Mays, J., concur.

KEY WORDS: *Landlord; tenant; breach of contract; real party in interest; first time on appeal; service of process.*

The defendant raised real-party-in-interest issues on appeal that were not raised at the trial-court level. We decline to address these arguments for the first time on appeal.

The defendant also raises issues concerning the sufficiency of service with respect to the complaint. Since this issue was also not raised below, it is waived.

114486	COMMON PLEAS COURT	E	Civil C.P.-Not Juv,Dom Or Prob
ARI B. KLARFELD, ET AL. v THE VESTIGE GROUP LLC			

Affirmed.

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

KEY WORDS: *Forum-selection clause, commercial contract, fraud or overreaching, unreasonable and unjust enforcement.*

Plaintiff filed suit in Ohio, individually and on behalf of an Ohio business he owns and operates, against a North Carolina company. Parties had entered service agreements that included a forum-selection clause requiring disputes to be adjudicated in North Carolina. Forum-selection clauses in commercial contracts are ordinarily enforceable. Service agreements were commercial contracts because it was in furtherance of both parties' business activities, even where plaintiff also used some of business's assets personally. Enforcement of forum-selection clause was adequate basis for dismissal where plaintiff did not allege fraud or

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overreaching in formation of the provision. Enforcement of the clause was also not unreasonable and unjust where, among other factors, plaintiff provided no information to substantiate his claim that he had a medical condition that made litigating in North Carolina unduly burdensome.

114512	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v VINCENT SYKES			

Affirmed.

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

KEY WORDS: *Crim.R. 29; motion for acquittal; sufficiency of the evidence; circumstantial evidence; probative value; manifest weight of the evidence; inconsistencies in witnesses' testimony.*

Even though the evidence against appellant was entirely circumstantial, his conviction was supported by sufficient evidence and was not against the manifest weight of the evidence.

114513	COMMON PLEAS COURT	E	Civil C.P.-Not Juv,Dom Or Prob
JOSEPH TVERGYAK v THOMAS RAK			

Affirmed.

Anita Laster Mays, J., Emanuella D. Groves, P.J., and Deena R. Calabrese, J., concur.

KEY WORDS: *Summary judgment.*

The trial court did not err by granting the appellee's motion for summary judgment because there were no genuine issues of material fact.

114575	COMMON PLEAS COURT	E	Civil C.P.-Not Juv,Dom Or Prob
WILLIAM KIRKSEY v CORNERSTONE INNOVATIONS, INC., ET AL.			

Affirmed.

Sean C. Gallagher, J., Michelle J. Sheehan, P.J., and Kathleen Ann Keough, J., concur.

KEY WORDS: *Workers' compensation; appeal; loss of use; extent of disability; R.C. 4123.512(A); R.C. 4123.57(B); mandamus; lack of jurisdiction; dismissed.*

Affirmed the trial court's decision dismissing case for lack of

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jurisdiction pursuant to Civ.R. 12(B)(1). The trial court lacked jurisdiction over an appeal from a decision of the Industrial Commission of Ohio that denied appellant's motion for a total loss of use of his right foot. Authority from the Supreme Court of Ohio establishes that the decision concerned the injured worker's "extent of disability," which is not appealable under R.C. 4123.512(A), and that the decision is properly challenged in mandamus. The trial court did not err in declining to address appellant's constitutional challenges, and those challenges were not considered on appeal.

114578	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v JERROLD HADLEY, JR.			

Affirmed.

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

KEY WORDS: *Manifest weight of the evidence; disrupting public services.*

Judgment affirmed. We cannot say that the jury lost its way in finding the appellant guilty of disrupting public services when the appellant's own testimony acknowledged that he took the victim's phone and threw it to the side to prevent her from calling for assistance. Moreover, appellant concedes, in his appellate brief, that he took the phone intending to prevent the police from responding to the scene. His actions delayed the response of police arriving to the scene and allowed him to leave before the police arrived. Therefore, we find that the prosecution has met its burden of persuasion and this is not the exceptional case in which the evidence weighs heavily against the conviction.

114621	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v NICHALOS MENDENHALL			

Affirmed and remanded.

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

KEY WORDS: *Consecutive sentences; R.C. 2929.14(C)(4); R.C. 2929.19(B)(2)(c).*

The trial court did not err when it sentenced the appellant to consecutive sentences because the trial court fully complied with R.C. 2929.14(C)(4). The trial court failed to comply with the advisements under R.C. 2929.19(B)(2)(c) and must provide appellant with the notifications required by law.

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114629	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v ROBERT B. MILLER			

Affirmed.

William A. Klatt, J.,* Mary J. Boyle, P.J., and Deena R. Calabrese, J., concur.

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

KEY WORDS: *R.C. 2929.14(C)(4); consecutive sentence; protect the public from future crime; course of conduct; purposes of felony sentencing.*

The trial court's imposition of consecutive sentences was not contrary to law where the court made the necessary R.C. 2929.14(C)(4) findings, the court's corresponding judgment entry reflected those statements, and this court did not find clearly and convincingly that the record did not support the trial court's findings. Additionally, the trial court's imposition of the maximum sentence was consistent with the purposes of felony sentencing.

114693	JUVENILE COURT DIVISION	F	Civil C.P.-Juv, Dom, Probate
IN RE: S.B.			

Dismissed.

William A. Klatt, J.,* Lisa B. Forbes, P.J., and Michael John Ryan, J., concur.

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

KEY WORDS: *Parental rights; Anders v. California; motion to withdraw; frivolous; clear and convincing evidence.*

Counsel satisfied the requirements of Anders v. California. Because an appeal would be wholly frivolous, the case is dismissed and counsel's motion to withdraw is granted.

114761	COMMON PLEAS COURT	I	Court of Claims
THE TENTACLES OF CUYAHOGA COUNTY v CUYAHOGA COUNTY PROSECUTOR'S OFFICE			

Affirmed.

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

KEY WORDS: *Public Records Act; R.C. 149.43; R.C. 2743.75; exemption; waiver.*

Affirmed. The Court of Claims properly dismissed appellant's

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complaint alleging a denial of access to public records because the records in question were exempt under R.C. 149.43(A)(1)(b) as records pertaining to probation or community-control sanctions. Moreover, contrary to appellant's assertion, the record does not establish the appellee waived the exemption by releasing the records to the public.

114797	CLEVELAND MUNI.	G	Civil Muni. & City
CITY OF CLEVELAND v J. T.			

Reversed and remanded.

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

KEY WORDS: *Conceded error; Loc.App.R. 16(B); motion to seal record; expungement; hearing.*

Judgment is reversed and remanded. A review of the record reveals that the defendant's motion to seal her record was denied by the court without first holding a hearing. The court's basis to deny the defendant's motion was that the defendant had passed away although the defendant is alive. The City concedes the error. Therefore, we reverse the municipal court's judgment denying the defendant's motion to expunge and seal her record and remand to the court to set a hearing date and hold a hearing on the motion.

114886	COMMON PLEAS COURT	E	Civil C.P.-Not Juv,Dom Or Prob
FRANCISCAN COMMUNITIES, INC., ET AL. v JASON RICE, ET AL.			

Vacated and remanded.

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

KEY WORDS: *Charging lien; judgment lien; creditor's bill; attorney fees; counterclaim; setoff; supersedeas bond; priority.*

Trial court abused its discretion in denying attorney's motion to enforce a charging lien where the law firm timely produced a copy of the attorney-client fee agreement, the law firm obtained a money judgment for its client, and the law firm provided timely notice of its intent to assert the lien.

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114889 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE N.M.

Affirmed.

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

KEY WORDS: *Parental rights; termination of parental rights; permanent custody; substance abuse; case plan; reasonable efforts; best interests of the child; cannot or should not be placed finding; R.C. 2151.419; R.C. 2151.414; manifest weight of the evidence; clear and convincing evidence.*

Judgment affirmed. The record supports the juvenile court's determination, pursuant to R.C. 2151.419, that the agency made reasonable efforts to prevent removal or to return the child safely home. Additionally, the juvenile court's decision granting permanent custody to the agency pursuant to R.C. 2151.414 is supported by clear and convincing evidence in the record and is not against the manifest weight of the evidence.

114932 DOMESTIC RELATIONS F Civil C.P.-Juv, Dom, Probate
STEPHEN K. CHRZANOWSKI v MARY CHRZANOWSKI

114933 DOMESTIC RELATIONS F Civil C.P.-Juv, Dom, Probate
STEPHEN K. CHRZANOWSKI v MARY CHRZANOWSKI

Affirmed.

Eileen A. Gallagher, A.J., Emanuella D. Groves, J., and Michael John Ryan, J., concur.

KEY WORDS: *Pro se litigant; divorce; App.R. 12(A)(2); App.R. 16(A)(2); App.R. 16(A)(7); failure to cite legal authority.*

Appellant is representing herself pro se in this appeal in a divorce case. She failed to cite any legal authority at all in her brief. Pursuant to the appellate rules, we disregard her assignments of error.

114962 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v BOBBY JOHNSON, JR.

Affirmed.

Eileen T. Gallagher, P.J., and Sean C. Gallagher, J., concur; Michael John Ryan, J., dissents (with separate opinion).

KEY WORDS: *Motion for relief from duty to register as violent*

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offender; R.C. 2903.42; violent offender database; jurisdiction; motion must be filed in court that sentenced offender; sentencing court; Crim.R. 48; dismissal; nullity.

The trial court did not err in finding that it lacked jurisdiction to consider appellant's motion for relief from duty to register as a violent offender. Appellant's motion was filed in the incorrect case number, and at the point he sought to rectify the error, the statutory time for filing the motion had passed.