

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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July 3, 2025

113892 PROBATE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
ALEC DECKMAN v KIM JOSEPH, ET AL.

Affirmed.

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

KEY WORDS: *Civ.R. 12(b)(6); motion to dismiss; standing; undue influence; breach of fiduciary duty; declaratory-judgment action; R.C. 2721.12(A); indispensable party; divorce decree; life insurance beneficiary; remedies; constructive trust; accounting.*

Son of decedent ("Alec") appealed trial court's grant of motion to dismiss his claims. Alec alleged that decedent's niece ("Kim") made herself beneficiary of decedent's life insurance policy by obtaining power of attorney for decedent after he was no longer competent. Alec's claims were properly dismissed for lack of standing because he failed to allege facts that, if proven, showed he was injured by Kim's conduct. Alec did not allege that he was ever a beneficiary of the life insurance policy. The insurance application he attached to his complaint listed his mother as the beneficiary, not him. Though Alec alleged that the decree governing decedent's divorce from Alec's mother required decedent to maintain life insurance, Alec did not plead or attach documents to his complaint that showed the divorce decree required him to be the beneficiary of the policy. Relatedly, Alec failed to name his mother or brother as parties, despite the fact that any interest they had in the policy by virtue of the application or divorce decree would be terminated by the declaratory judgment he requested. Having failed to state a claim, Alec also established no basis for his requested remedies - constructive trust and accounting of decedent's assets.

114238 PARMA MUNI. G Civil Muni. & City
BANYAN LIVING OHIO, LLC v MARIANTHIE VOURLIOTIS, ET AL.

Reversed and remanded.

Mary J. Boyle, J., Lisa B. Forbes, P.J., and Deena R. Calabrese, J., concur.

KEY WORDS: *Service; motion for default judgment; jurisdiction; abuse of discretion; Civ.R. 4.1; Civ.R. 4.2; Civ.R. 4.6; void.*

Judgment reversed and remanded. The municipal court's order granting judgment in favor of plaintiff is reversed and, on remand, the court is instructed to vacate the default judgment. The trial court abused its discretion when it granted default judgment against the defendant when the docket reveals that the plaintiff never perfected service on the defendant. A default judgment rendered by a court without obtaining service over the defendant is

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void and the defendant is entitled to vacation of the judgment.

114316 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
CITY OF SEVEN HILLS v STONE RIDGE MAINTENANCE ASSOCIATION

Affirmed.

Lisa B. Forbes, P.J., Eileen T. Gallagher, J., and Emanuella D. Groves, J., concur.

KEY WORDS: *Permanent injunction, statutory injunctive relief, R.C. 715.30, municipality, building code, community association, governing documents, plat, retroactive enforcement, Ohio Const., art. II, § 28, attorney fees, punitive damages, bad faith.*

Residential subdivision's maintenance association appealed judgment entry that granted a municipality permanent injunctive relief and ordered the Association to fix erosion to a stream bank located on the association's common elements. The court did not err in ordering the permanent injunction without finding clear and convincing evidence of irreparable harm to the City because R.C. 715.30 gives municipalities authority to enforce their building codes by seeking a permanent injunction. Association's failure to remedy erosion was a violation of the building code where the association agreed to maintain drainage systems in its governing documents, which were submitted to and approved by the City during the construction of the subdivision, and where the stream was relocated during construction of the subdivision. That current city ordinances were passed after construction of the subdivision did not make their application by the trial court unconstitutionally retroactive because prior city ordinances imposed similar maintenance requirements on the association, which the association had also accepted in its plat. The trial court did not abuse its discretion in denying the city's motion for attorney fees where the city did not seek punitive damages, was not a condo owner or association under R.C. 5312.12, and did not demonstrate bad faith conduct by the association.

114324 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v JEREMIAH JACKSON

Reversed.

Eileen T. Gallagher, P.J., and Kathleen Ann Keough, J., concur; William A. Klatt, J.,* concurs in part and dissents in part (with separate opinion).

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

KEY WORDS: *Postconviction relief; untimely, successive petition; R.C. 2953.21; jurisdiction; abuse of discretion; de novo review; unavoidably prevented.*

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The trial court did not have jurisdiction to consider appellee's petition because appellee failed to demonstrate that he was unavoidably prevented from discovering the facts upon which his petition relied.

114354 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: K.A.H.

Affirmed.

Kathleen Ann Keough, J., Eileen A. Gallagher, A.J., and Sean C. Gallagher, J., concur.

KEY WORDS: Juvenile; adjudicated delinquent; sexual imposition; manifest weight of the evidence; sufficiency of the evidence.

Judgment affirmed. The juvenile's adjudications were not based on insufficient evidence or against the manifest weight of the evidence.

114375 PROBATE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
APRIL MORRIS v THERESA N. TURK

Affirmed.

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

KEY WORDS: Res judicata; motion for summary judgment; Civ.R. 56; stock shares; jurisdiction; probate court; trustee; trust; will; estate; estate assets; Loc.App.R. 3.

Judgment affirmed. The probate court did not err when it determined that it had jurisdiction over stock shares and its distribution of those shares was not barred by res judicata. The cross-appeal has no merit because the claims are barred by res judicata, and the cross-appellant did not properly perfect the appeal as to one of the cross-appellees.

114448 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v DARQUAN ALBRIGHT

Affirmed.

Michael John Ryan, J., Michelle J. Sheehan, P.J., and Lisa B. Forbes, J., concur.

KEY WORDS: Crim.R. 11; plea hearing; firearm specifications; mandatory sentence; consecutive sentence; minimum sentence;

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maximum sentence.

The trial court complied with Crim.R. 11 in accepting appellant's plea.

114524	COMMON PLEAS COURT	E	Civil C.P.-Not Juv,Dom Or Prob
AARON J. BROCKLER v DEPUTY JEFFREY F. TURNER, JR., ET AL.			

Affirmed.

Kathleen Ann Keough, J., Eileen A. Gallagher, A.J., and Sean C. Gallagher, J., concur.

KEY WORDS: *Summary judgment; foreseeable; risk of harm; handcuffed; Political Subdivision Tort Immunity Act; R.C. 2744.03(A)(6); employee; reckless and wanton; policy.*

Trial court did not err in granting summary judgment in favor of sheriff deputies because the risk of harm to the attorney in the courtroom by his inmate-client was not foreseeable and a violation of a departmental policy is not per se reckless. Moreover, the deputies are entitled to immunity because the plaintiff failed to satisfy his reciprocal burden of demonstrating that a genuine issue of material fact exists regarding whether the deputies acted recklessly or wantonly when the inmate was handcuffed in front of his body and by failing to anticipate the inmate's behavior during sentencing.