

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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June 18, 2025

113738 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
POINT EAST CONDOMINIUM OWNERS' ASSOCIATION v BRYAN S. BILFIELD, ET AL.

Affirmed in part, reversed in part, and remanded.

Anita Laster Mays, J., and Eileen A. Gallagher, A.J., concur; Kathleen Ann Keough, J., concurs in judgment only in part and dissents in part (with separate opinion).

KEY WORDS: *R.C. 5312.12; condominium lien certificates; R.C. 5815.36; disclaimers of testamentary and nontestamentary property; foreclosure; doctrine of res judicata.*

The trial court's findings of res judicata was not in error. Appellant had actual knowledge of appellees' purported interests and disclaimers of interest in the condominium unit at the time it filed the condominium lien certificate foreclosure action against the unit owner who passed away while the case was pending. Appellant failed to pursue the issue against appellees as purported successors-in-interest who were named parties in the case. Appellant filed the instant action against appellees seeking recovery of the assessments and fees while the foreclosure was pending. The matter should have been adjudicated during the foreclosure case and is barred by the doctrine of res judicata.

The trial court's finding that the statutory disclaimers of interest in the unit were void and that appellees were bound by the condominium declaration is reversed as barred by the doctrine of res judicata.

114022 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v LASHAWN JENKINS

Affirmed in part, reversed in part, and remanded.

Anita Laster Mays, J.; Michelle J. Sheehan, P.J., concurs in judgment only; Sean C. Gallagher concurs in judgment only (with separate opinion).

KEY WORDS: *R.C. 2953.08(G)(2), felony sentencing; sentence contrary to law; R.C. 2929.144, maximum prison terms; R.C. 2929.14(C)(4), consecutive sentences; R.C. 2941.25, allied offenses; merger.*

The aggregate prison term exceeds the maximum sentence permitted by law and is therefore contrary to law. Appellant has not demonstrated that the record fails to clearly and convincingly support the trial court's R.C. 2929.14(C)(4) consecutive-sentence findings. The failure to merge the allied offenses of attempted grand theft and aggravated robbery constitutes error.

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114038 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v SHANAJA JONES

Affirmed in part, reversed in part, and remanded.

William A. Klatt, J.,* Eileen T. Gallagher, P.J., and Anita Laster Mays, J., concur.

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

KEY WORDS: *Aggravated murder; sufficiency of the evidence; manifest weight of the evidence; pre-arrest silence; privilege against self-incrimination; self-defense; jury instruction; plain error; Crim.R. 52(B); ineffective assistance of counsel; cumulative error; sentence.*

Defendant's convictions were supported by sufficient evidence and were not against the manifest weight of the evidence. Statements made regarding a detective's attempts to communicate with the defendant during the investigation were not improper comments on her pre-arrest silence. There was no plain error in declining to give a self-defense jury instruction where the evidence did not support the defense. Trial counsel was not ineffective for failing to object to admissible testimony or failing to request an inapplicable jury instruction. The trial court erred by considering the defendant's silence in crafting its sentence.

114222 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
NATIONSTAR MORTGAGE LLC, DBA, MR. COOPER v JIMMY L. CROOM, ET AL.

Dismissed.

Eileen T. Gallagher, P.J., Michael John Ryan, J., and Sean C. Gallagher, J., concur.

KEY WORDS: *Voluntary dismissal; self-executing; final, appealable order.*

Appeal dismissed as untimely because appellant failed to file a notice of appeal within 30 days of plaintiff's voluntary dismissal of the action.

114230 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v VALENTINO FLETCHER

Affirmed.

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

KEY WORDS: *Postsentence motion to withdraw guilty plea; Crim.R.*

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(Case 114230 continued)

32.1; res judicata; direct appeal.

Appellant appeals the trial court's denial of his postsentence motion to withdraw his guilty plea pursuant to Crim.R. 32.1. We find that appellant's assignments of error are properly overruled because the issues raised in his postsentence motion could have and should have been brought in his direct appeal and are now barred by the doctrine of res judicata.

114249	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v MARQUIS D. ANDREWS			

Affirmed in part, vacated in part, and remanded.

Lisa B. Forbes, P.J., Emanuella D. Groves, J., and Michael John Ryan, J., concur.

KEY WORDS: *Sufficiency of the evidence, manifest weight of the evidence, having weapons while under disability, tampering with evidence, controlled buy, confidential reliable informant, Evid.R. 702, expert-opinion testimony.*

Andrews appealed convictions for aggravated trafficking in drugs, aggravated possession of drugs, possessing criminal tools, having weapons while under disability ("HWWUD"), and tampering with evidence. Insufficient evidence supported HWWUD conviction because officer testimony established only that Andrews walked near an area in an open field where a gun was later found. Insufficient evidence supported tampering with evidence conviction because nothing in the record indicated Andrews knew of investigation when he discarded drugs in open field. Testimony that Andrews had cash on his person that police had previously used in a "controlled buy" did not require disclosure of informant identity because Andrews was not charged with selling drugs to the informant. Testimony that drug dog alerted to presence of illegal drugs in Andrews's car was not expert-opinion testimony because officer was interpreting dog's behavior based on his own firsthand observations.

114303	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v BILL W. DOBSON, JR.			

Affirmed.

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

KEY WORDS: *Fatal shooting; aggravated murder; complicity; prior calculation and design; video evidence; sufficiency of evidence; manifest weight of evidence; effect on the listener; unanimity instruction; consecutive terms on firearm specifications.*

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(Case 114303 continued)

Judgment affirmed. The trial court did not abuse its discretion or commit plain error by admitting a video that was a compilation of surveillance footage overlayed with GPS data from the appellant's ankle monitor. The defense stipulated to the individual components of the video, and the video was authenticated under the silent witness theory.

The State presented sufficient evidence, through eyewitness testimonial evidence, as well as physical evidence, that the appellant aided and abetted the principal, purposely and with prior calculation and design, in shooting the victim.

The weight of the evidence supports the convictions. This is not the exceptional case in which the evidence weighs heavily against the convictions.

The trial court did not abuse its discretion by allowing a witness to testify that she initially lied to the police because she was afraid of the codefendant. The testimony was not offered for the truth of the matter asserted. Rather, it was offered to show the effect it had on the witness, i.e., to explain her actions.

The trial court's instruction that the jury must be unanimous of each element of the crime, but need not agree on a single means by which the element is satisfied, comported with the law.

The trial court properly sentenced the appellant under R.C. 2929.14(B)(1)(g) to consecutive terms for the firearm specifications under two counts even though one count merged into the other count.

114337	COMMON PLEAS COURT	E	Civil C.P.-Not Juv,Dom Or Prob
FAYA LLC v ABDURAHMAN HALIL KHALIL, ET AL.			

Affirmed.

Mary J. Boyle, P.J., Kathleen Ann Keough, J., and Deena R. Calabrese, J., concur.

KEY WORDS: Contract; breach; lease; specific performance; agreement; abuse of discretion.

Judgment affirmed. The trial court did not abuse its discretion when it ordered defendants to transfer the subject property to plaintiff for \$1.1 million less any rent plaintiff paid from August 1, 2021, to September 3, 2024, and found that plaintiff was no longer required to pay rent to defendants. The record demonstrates that plaintiff and defendants entered into a lease and asset purchase agreement for a gas station and convenience store, which included an option for plaintiff to purchase defendants' property. Defendants refused to sell the property to plaintiff when plaintiff exercised its option to buy because defendants changed their mind and no longer wanted to sell the property. Plaintiff complied with its contractual obligations in the lease and asset purchase agreement, and defendants breached the lease when they refused to sell the

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(Case 114337 continued)

property. As a result, the trial court did not exercise its judgment in an unwarranted way when rejecting defendants' reason to not comply with their contractual obligations and ordering the specific performance.

114352	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v KMEENE HUBBARD			

Affirmed.

Lisa B. Forbes, P.J., Emanuella D. Groves, J., and Michael John Ryan, J., concur.

KEY WORDS: Postsentence; motion to withdraw; Crim.R. 32.1; abuse of discretion; manifest injustice; res judicata; DNA; ineffective assistance of counsel.

Judgment affirmed. The trial court did not abuse its discretion in denying defendant's second, postsentence motion to withdraw his guilty plea where defendant's claims of ineffective assistance of counsel were barred by res judicata and defendant could not show a manifest injustice from counsel's failure to attend DNA collection.

114427	COMMON PLEAS COURT	E	Civil C.P.-Not Juv,Dom Or Prob
VICTOR SOLER, JR., ADMINISTRATOR v CLEVELAND METROPOLITAN SCHOOL DISTRICT, ET AL.			

Reversed and remanded.

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

KEY WORDS: Civ.R. 12(B)(6); motion to dismiss; physical defect; R.C. 2744.02; de novo review; political subdivision; immunity; public education; software filter; negligence claim; district-issued computer; school grounds.

Reversed. The trial court erred when it denied school district's motion to dismiss based on political subdivision immunity. The plaintiff-appellee was unable to withstand the school district's motion to dismiss because he was unable to show and/or did not properly plead in his complaint that there was a physical defect in the filtering software, that school employees misused or failed to monitor the software, or that the injury occurred on school grounds.

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114522	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v ANTHONY BECK			

Affirmed.

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

KEY WORDS: *Guilty plea; no-contest plea; blanket policy of not accepting no-contest pleas; abuse of discretion.*

Judgment affirmed. Although a defendant has to have the consent of the trial court to plead no contest, a trial court may not adopt a blanket policy of rejecting no-contest pleas. The record does not demonstrate that the trial court had a blanket policy of not accepting no-contest pleas in all cases. Further, the trial court gave due consideration to the facts and circumstances presented in this case in denying the appellant's request to plead no contest. Further, after consultation with counsel, the appellant stated that he understood the plea agreement and wished to abide by it. The trial court did not abuse its discretion by denying the appellant's request to plead no contest.

114539	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v DEVIN HALL			

Affirmed.

Mary J. Boyle, P.J., Sean C. Gallagher, J., and Kathleen Ann Keough, J., concur.

KEY WORDS: *Court-appointed attorney; abuse of discretion; hybrid representation.*

Judgment affirmed. The trial court is not required to, sua sponte, appoint new counsel when a defendant files a pro se motion to withdraw guilty plea wherein he makes vague allegations of new evidence that was supposedly withheld by current counsel. The appellant's motion did not set forth facts that, if true, would require the appointment of new counsel. Ohio law does not allow hybrid representation. Furthermore, the appellant did not request new counsel, nor did he express his desire to proceed pro se on his motion. Rather, the appellant withdrew his motion prior to sentencing. Accordingly, there was no abuse of discretion.

114643	JUVENILE COURT DIVISION	F	Civil C.P.-Juv, Dom, Probate
IN RE: I.M.			

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Vacated and remanded.

Lisa B. Forbes, P.J., Eileen T. Gallagher, J., and Kathleen Ann Keough, J., concur.

KEY WORDS: *Service of process; Civ.R. 4.1; improper service; presumption; rebut; permanent custody; jurisdiction; invalid; motion to modify temporary custody to permanent custody.*

The juvenile court lacked jurisdiction to issue an order of permanent custody where mother rebutted the presumption of proper service of the motion to modify temporary custody to permanent custody.

114980	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v ROBERT FISHER, JR.			

Reversed, vacated, and remanded.

Deena R. Calabrese, J., Sean C. Gallagher, P.J., and Kathleen Ann Keough, J., concur.

KEY WORDS: *Conceded error; sentencing; community control; probation violation; reserved prison term; sentencing error; notice requirement; vacated sentence; Loc.App.R. 16(B).*

Judgment reversed, sentence vacated, and case remanded. The trial court erred by imposing a prison term after defendant-appellant's community-control violation because it had never reserved a prison term or notified defendant-appellant of a specific prison term or range at his original sentencing. The State conceded the error under Loc.App.R. 16(B).