

## CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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**March 6, 2025**

**112408** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
DALONTE WHITE v CITY OF CLEVELAND, ET AL.

**112413** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
DALONTE WHITE v CITY OF CLEVELAND, ET AL.

**112415** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
DALONTE WHITE v CITY OF CLEVELAND, ET AL.

Reversed and remanded.

Anita Laster Mays, J., Mary J. Boyle, P.J., and Sean C. Gallagher, J., concur (Part I); Sean C. Gallagher, J., and Mary J. Boyle, P.J., concur (Part II) (with separate opinion); Anita Laster Mays, J., dissents (Part II) (with separate opinion).

**KEY WORDS:** *Malicious prosecution; false arrest; false imprisonment; political subdivision immunity; R.C. 2744.02; R.C. 2744.03(A)(6); summary judgment; genuine issue of material fact; collateral estoppel; probable cause; police officers; City of Cleveland; civil liability; intimidation; Servicemembers Civil Relief Act; juvenile court bindover.*

*The City of Cleveland is entitled to political subdivision immunity under R.C. 2744.02 for the state-law claims, as no applicable exceptions applied. The federal court's finding of probable cause precluded White's claims against the officers, and collateral estoppel barred relitigating those issues in state court. The trial court erred in denying the individual defendants summary judgment, because White did not present evidence that any officer acted with malicious purpose, in bad faith, or in a wanton or reckless manner.*

**113839** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v JESUS BEY

Affirmed in part, reversed in part, and remanded.

Michael John Ryan, J., Michelle J. Sheehan, P.J., and William A. Klatt, J.,\* concur.

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

**KEY WORDS:** *R.C. 2907.02, rape; R.C. 2905.01, kidnapping; R.C. 2941.148, sexually violent predator; allied offenses; Evid.R. 701; lay witness testimony; plain error; manifest weight; sufficiency of the evidence.*

*Judgment affirmed in part, reversed in part, and remanded. Appellant's convictions for rape and kidnapping with specifications were not against the manifest weight of the evidence, and the trial*

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(Case 113839 continued)

**court's determination that he was a sexually violent predator was supported by sufficient evidence. The offenses of kidnapping and rape merge because the kidnapping was incidental to the rape offenses.**

**113916** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
KAREN A. MICHAEL v MARGARET E. STANARD, ET AL.

Affirmed.

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

**KEY WORDS: Judgment on the pleadings; statute of limitations; cognizable event; legal-malpractice.**

**Judgment affirmed. The trial court did not err in granting appellees' motions for judgment on the pleadings because appellant filed her complaint for legal-malpractice after the expiration of the statute of limitations. Although appellant argued that the cognizable event occurred less than one year before the expiration of the statute of limitations, several cognizable events occurred much earlier that put, or should have put, appellant on notice of a claim.**

**113929** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v CARLTON HEARD

Affirmed.

Sean C. Gallagher, J., Lisa B. Forbes, P.J., and Deena R. Calabrese, J., concur.

**KEY WORDS: Involuntary manslaughter; having weapons while under disability; firearm specifications; guilty plea.**

**Affirmed. The defendant's guilty plea was knowingly, voluntarily, and intelligently entered because the trial court advised him of his right to a jury trial and was not required to specifically include additional information about the jury unanimity requirement or how many jurors would be on the panel.**

**113944** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v EMILIO AYALA

Affirmed.

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

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(Case 113944 continued)

**KEY WORDS:** Felony sentencing; consecutive sentences; ineffective assistance of counsel.

Defendant's 23-year prison sentence is affirmed because the court complied with R.C. 2929.14(C)(4) when imposing consecutive sentences. Defense counsel was not ineffective for failing to present mitigating evidence at sentencing because: 1) it is not a factor for consideration under R.C. 2929.14(C)(4); 2) failure to present mitigating evidence is not per se ineffective assistance of counsel; 3) the mitigating evidence at issue is not part of the record; and 4) the defendant failed to show prejudice.

**113955** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v JOSEPH MARTIN, JR.

Affirmed.

William A. Klatt, J., Michelle J. Sheehan, 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:** R.C. 2953.08; R.C. 2929.14(C)(4); consecutive sentences; clearly and convincingly; attempted rape; burglary; maximum sentence.

*The trial court's imposition of the maximum sentence was not contrary to law. The trial court did not err in imposing consecutive sentences.*

**113972** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
NICHOLE JUSTUS v CITY OF LAKEWOOD

Reversed.

Sean C. Gallagher, J., Emanuella D. Groves, P.J., and William A. Klatt, J.\*, concurs.

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

**KEY WORDS:** Political-subdivision immunity; summary judgment; R.C. 2744.02(B)(3); exception; negligent failure; public roads; in repair; repair; depression; de minimis; hazardous condition; duty; knowledge; actual notice; constructive notice; reasonable apprehension; lack of evidence.

*Reversed the decision of the trial court that denied summary judgment to the city on the basis of political-subdivision immunity. The exception to political-subdivision immunity under R.C. 2744.02(B)(3), for the negligent failure to keep public roads in repair, could not be found to apply in the matter. The plaintiff could not establish from the evidence that the city had a duty to repair the*

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(Case 113972 continued)

**subject depression in the road where her scooter-accident occurred. Even if she could, there was nothing to show that the city actively created the condition or that it had actual or constructive notice of the condition or that it should have anticipated that the depression posed a hazard or potential danger.**

**114007** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
IN RE: J.D.

Reversed and remanded.

Eileen A. Gallagher, A.J., Eileen T. Gallagher, J., and Kathleen Ann Keough, J., concur.

**KEY WORDS: Juvenile court; competency hearing; R.C. 2152.51 through 2152.59; ineffective assistance of counsel; statutory timing requirements for conducting competency evaluations of juveniles; failure to order residential competency treatment.**

**Juvenile court's judgment adjudicating the juvenile delinquent and committing him to the Ohio Department of Youth Services is reversed. Evidence in the record showed that the juvenile was likely incompetent when he entered his admission to aggravated robbery. Additionally, the court erred when it failed to comply with various timing requirements in the juvenile competency statutes. The juvenile's counsel was ineffective for failing to raise the issue of competency, failing to file a motion to withdraw the admission, and failing to object to the court not complying with the statutory timing requirements concerning competency. Furthermore, the court erred when it found that it had no "authority" to refer the juvenile for residential competency treatment.**

**114032** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
STATE OF OHIO v M.F.

**114033** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
STATE OF OHIO v M.F.

Vacated.

Michelle J. Sheehan, P.J., Michael John Ryan, J., and Deena R. Calabrese, J., concur.

**KEY WORDS: Notice of conceded error; partial sealing; multiple offenses.**

**The defendant was convicted of three counts of drug possession and one count of physical control of vehicle while under the influence. He was also charged in a separate indictment arising from the same set of facts. The latter indictment was dismissed. He was ineligible to have either of his cases sealed since physical control of vehicle while under the influence is not eligible for sealing or expungement.**

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**114164** JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate  
IN RE: D.H.

Dismissed.

Michael John Ryan, J.; Emanuella D. Groves, J., concurs and concurs with the separate opinion;  
Michelle J. Sheehan, P.J., concurs (with separate opinion).

**KEY WORDS:** *Permanent custody, Anders v. California, 386 U.S. 738 (1967).*

*Appeal dismissed; appointed counsel's motion to withdraw pursuant to Anders v. California, 386 U.S. 738 (1967), is granted. There is clear and convincing evidence in the record to support the juvenile court's determinations, and the evidence was legally sufficient to support the trial court's decision as a matter of law. Further, the juvenile court's decision to grant permanent custody to CCDCFS was not against the manifest weight of the evidence. Moreover, Mother failed to present clear and convincing evidence that, despite having had her parental rights terminated for a sibling of the subject child, she would be able to provide a legally secure permanent placement and adequate care for the health, welfare, and safety of the child as required under R.C. 2151.414(E)(11). On this record, an extension of temporary custody was not warranted and the trial court did not abuse its discretion by not granting an extension.*

**114218** COMMON PLEAS COURT E Civil C.P.-Not Juv, Dom Or Prob  
WELLS FARGO BANK, NATIONAL ASSOCIATION AS TRUSTEE v  
GRACE M. DOBERDRUK, ET AL.

Dismissed.

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

**KEY WORDS:** *Foreclosure; confirmation of the sale; bond; motion for stay; moot; R.C. 2329.45.*

*Appeal dismissed as moot. Appellant failed to obtain a stay of the confirmation of the sale because she did not post the required bond set by the trial court. Therefore, the sale of the property was confirmed and the proceeds were distributed. Appellant's argument that the appeal was not moot because R.C. 2329.45 provides a remedy when the property has been sold is unpersuasive because this court has held that R.C. 2329.45 applies only to appeals that were taken from the order confirming the sale and when an appellant successfully obtains a stay. Here, the appellant failed to obtain a stay. Thus, the appeal is moot.*

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**114263** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v RICHARD LENARD

Affirmed.

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

**KEY WORDS:** *Return of property; forfeiture; res judicata; timely; waiver.*

*Trial court did not commit prejudicial error in denying appellant's motion for return of property because he did not timely raise the issue with the trial court during the pendency of the case and res judicata now bars the issue from consideration in his criminal case.*

**114335** JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate  
IN RE: AR.M., ET AL.

Affirmed.

Lisa B. Forbes, J., Michelle J. Sheehan, P.J., and Deena R. Calabrese, J., concur.

**KEY WORDS:** *Complaint for abuse and neglect, R.C. 2151.353(A)(4), request for permanent custody, cannot be placed with one of the child's parents within a reasonable time, should not be placed with either parent, R.C. 2151.414(D)(1), best interests of the child, clear and convincing evidence, R.C. 2151.414(E).*

*CCDCFS filed a complaint alleging abuse and neglect, requesting temporary custody of twin four-year-old children. The trial court did not abuse its discretion by granting the agency permanent custody where it found the children cannot be placed with one parent in a reasonable time, should not be placed with either parent, and temporary custody was in the best interests of the children. There was clear and convincing record evidence sufficient to support the court's findings, which were not against the manifest weight of the evidence. This evidence included that the children had been previously found abused while under parents' care, resulting in injuries to Ar.M. that required significant, ongoing medical care; CCDCFS later became unable to locate the children because of mother's failure to communicate with her case worker; the children were eventually found with an inadequate caregiver who suffered from dementia; the children were dirty, dehydrated or severely underweight, requiring hospitalization; mother was incarcerated at time of trial facing charges of child endangering regarding these children; the children had been in temporary agency custody for more than half of their lives; and CCDCFS could not identify alternative adequate caregivers. Judgment affirmed.*

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**114380** JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate  
IN RE: A.M., ET AL.

**114381** JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate  
IN RE: A.M.

Affirmed.

Deena R. Calabrese, J., Michelle J. Sheehan, P.J., and Lisa B. Forbes, J., concur.

**KEY WORDS:** *Permanent custody; abused; neglected; dependent; special needs; paternity; R.C. 2151.353(A); R.C. 2151.414(E); R.C. 2151.414(E)(1); R.C. 2151.414(E)(4); R.C. 2151.414(E)(14); R.C. 2151.414(E)(15); R.C. 2151.414(D)(1); legal custody; reunification; reasonable efforts; sufficiency; manifest weight; clear and convincing.*

**Affirmed juvenile court's decision granting permanent custody of twin children to the children services agency and terminating father's parental rights. The court engaged in the proper analysis and made the requisite determinations pursuant to R.C. 2151.353(A)(4) and in accordance with R.C. 2151.414(E) and 2151.414(D)(1). Its findings were supported by sufficient evidence and were not against the manifest weight of the evidence. The record indicated that the agency made reasonable efforts to reunify the family. The juvenile court made multiple reasonable-efforts determinations prior to the dispositional hearing.**