

CASE DECISION LIST

March 13, 2025

113209 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
DANYETTE CALDWELL v CUSTOM CRAFT BUILDERS, INC., ET AL

Affirmed in part, reversed in part, and remanded.

Lisa B. Forbes, P.J., and Mary J. Boyle, J., concur; Emanuella D. Groves, J., dissents in part and concurs in judgment only in part (with separate opinion).

KEY WORDS: *Admissibility of evidence; sufficiency of the evidence; pierce the corporate veil; breach of contract; apparent agency; consumer sales practices act; conspiracy to commit fraud.*

The trial court's judgment in favor of the plaintiff on breach-of-contract, consumer sales practices act violations, and conspiracy-to-commit-fraud-claims after a bench trial is affirmed in part and reversed in part. Judgment for plaintiff on her breach-of-contract claim is affirmed. There was evidence presented at trial that the defendant LLC is liable for the actions of the "bad actor" in this case under the doctrine of apparent agency. Judgment on the remaining two claims is reversed because it is not supported by sufficient evidence in the record.

113550 DOMESTIC RELATIONS F Civil C.P.-Juv, Dom, Probate
ESMAIL PARSAI v PARVIN PARSAI

113747 DOMESTIC RELATIONS F Civil C.P.-Juv, Dom, Probate
ESMAIL PARSAI v PARVIN PARSAI

Affirmed.

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

KEY WORDS: *Divorce; division of marital property; equitable division of property; spousal support; temporary support; abuse of discretion; Civ.R. 75(N); R.C. 3105.171; de facto marriage termination; financial entanglements; bilateral; unilateral; motion for new trial; motion for relief from judgment; invited error; failure to prosecute; modification of temporary support; credit for payments during divorce proceedings; valuation of property; valuation evidence; time limits on presentation of evidence; prejudice; mootness; marriage inception date; pension; R.C. 3105.18.*

On Husband's assignments of error, the trial court did not abuse its discretion or err as a matter of law in rejecting a de facto marriage termination date of May 1, 2017, in favor of the final hearing date, October 11, 2023. The record supported the trial court's determination that the separation was the result of unilateral action by Wife rather than bilateral action by both parties, that there were continuing financial entanglements, and that there was insufficient

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evidence of the value of marital property on May 1, 2017, hampering the trial court's ability to equitably divide marital property as of that date. The trial court did not abuse its discretion or err as a matter of law by not retroactively modifying the temporary spousal-support order premised upon Husband's retirement. Husband did not prosecute his Civ.R. 75(N)(2) motion and never filed a motion to modify temporary support. The trial court did not abuse its discretion or err as a matter of law by not granting Husband credit for direct payments made to Wife during the pendency of the divorce proceedings. Trial court took payments into account in its ultimate property division determinations, and arguments regarding marital property valuation were waived where Husband failed to submit valuation evidence. The trial court did not abuse its discretion or err as a matter of law by placing time limitations on direct examination and cross-examination. Husband did not demonstrate what evidence he was prohibited from presenting due to the limitations and how he was prejudiced by the limitations. Furthermore, the transcript does not reflect that the trial court favored one side over the other in its timekeeping. Husband's arguments with respect to his motion for a new trial are disposed of by our resolution of his other assignments of error. Having overruled Husband's other assignments of error, we find that his assignment of error regarding the denial of his motion for a new trial is moot.

On Wife's assignments of error, the trial court did not err as a matter of law or abuse its discretion in finding that the parties were married on September 8, 1989, the date of their civil marriage, rather than sometime in 1981, when Wife claimed they privately exchanged vows in an Islamic ceremony. There was no evidence that it would be inequitable or prejudicial for the trial court to use the legal marriage date as the marriage inception date, especially where all significant marital property was obtained after the civil marriage date. The trial court did not err as a matter of law or abuse its discretion in ordering Husband to pay Wife monthly support in the amount of \$1,500 per month for life, absent Wife's cohabitation or remarriage. The record reflects that the trial court considered Husband's pension in its analysis of the R.C. 3105.18 factors with respect to an equitable division of property and did not abuse its discretion in its treatment of Husband's pension.

113803 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
BEACHWOOD CITY SCHOOL DISTRICT BOARD OF EDUCATION v
WARRENSVILLE HTS. SCHOOL DIST. BD. OF EDUCATION

Affirmed.

Mary J. Boyle, J., Kathleen Ann Keough, P.J., and Anita Laster Mays, J., concur.

KEY WORDS: *Interlocutory appeal; political immunity; governmental function; provision of a system of public education; motion for summary judgment; settlement agreement; sharing of tax revenue.*

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Judgment affirmed. The trial court's denial of Warrensville Heights' motion for partial summary judgment was proper. Warrensville Heights is not entitled to political subdivision immunity for Beachwood's unjust-enrichment, promissory estoppel, fraud, and conversion claims because Warrensville Heights' breach of the parties' settlement agreement is not conduct related to the provision of a system of public education and, as a result, is not a governmental function.

113833 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v MYLAN HUBBARD

Dismissed.

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

KEY WORDS: Jail-time credit; offense specific; concurrent sentences; fully served; pretrial detention; separate cases; equal protection.

An appeal from a trial court's decision on a motion for additional jail-time credit was dismissed as moot because the defendant-appellant had fully served his sentences on the offenses for which jail-time credit may have applied and jail-time credit on those offenses cannot transfer to a separate sentence incurred in a separate case.

113965 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
CHERYL TROUT v JAY SHANI DEV8, LLC D.B.A. MR. HERO, ET AL.

Reversed.

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

KEY WORDS: Constructive notice; negligence; slip and fall; directed verdict; judgment notwithstanding the verdict; Civ.R. 50; business invitee.

Defendant-appellant did not have constructive notice of a liquid substance on the floor prior to plaintiff-appellee's slip and fall. Plaintiff-appellee cannot rely on speculation to prove how long a liquid substance was on the floor prior to her fall.

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113985 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v JULIAN EARLY

113986 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v JULIAN EARLY

Reversed and remanded.

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

KEY WORDS: *Temporary protection order; expired; effective assistance of counsel; due process; fair trial; sufficiency; abduction; new trial.*

Appellant's conviction for abduction was supported by sufficient evidence where the appellant, without permission, drove off in the victim's car with the victim's child present in the backseat. Appellant was denied a fair trial and effective assistance of counsel when his counsel failed to object or recognize that the temporary protection order that the State used in support of its case had expired prior to the alleged commission the offenses. Appellant is entitled to a new trial.

114094 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v DAVID CLOUSER

Affirmed.

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

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

KEY WORDS: *Guilty plea; Crim.R. 11(C); nonconstitutional rights; prejudice; consecutive sentence; findings; R.C. 2929.14(C)(4); supported by the record; Reagan Tokes; unconstitutional.*

Defendant entered his guilty pleas knowingly, intelligently, and voluntarily even though court did not advise him that it could, theoretically, proceed directly to judgment and sentence because the substitute judge who accepted the guilty pleas informed the defendant that the assigned judge would sentence him at a later date.

Trial court's findings in support of consecutive sentence were supported by the record.

Indefinite sentence imposed pursuant to Reagan Tokes Law is constitutional.

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114107 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v MICHAEL WARD, JR.

Affirmed.

Eileen T. Gallagher, J., Eileen A. Gallagher, A.J., and Emanuella D. Groves, J., concur.

KEY WORDS: *Consecutive sentences; R.C. 2929.14(C); not disproportionate to seriousness and danger posed; adequately reflects seriousness of defendant's crimes; R.C. 2953.08(G)(2); clearly and convincingly find that the record does not support the trial court's findings; cruel and unusual punishment; Eighth Amendment; proportionality; Crim.R. 32(A); unreasonable delay.*

Appellant failed to demonstrate that the record did not support the imposition of consecutive sentences and did not show that the sentences imposed consecutively to the sentence in an unrelated case constituted cruel and unusual punishment or amounted to an unreasonable delay.

114148 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v TERRY FOSTER

Affirmed.

Emanuella D. Groves, J., Eileen A. Gallagher, A.J., and Eileen T. Gallagher, J., concur.

KEY WORDS: *Consecutive sentences; R.C. 2929.14(C)(4).*

Judgment affirmed. The trial court engaged in the proper analysis, considered the required statutory criteria, and made the necessary findings before imposing consecutive sentences. Moreover, the record clearly supports the trial court's findings that consecutive sentences were appropriate in this case.

114153 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v CHARLES MCCULLER

Appeal dismissed. Cross-appeal judgment affirmed.

Eileen T. Gallagher, J., Eileen A. Gallagher, A.J., and Emanuella D. Groves, J., concur.

KEY WORDS: *Appellate jurisdiction; State appeal as of right; R.C. 2953.08; sentence contrary to law; modification of sentence; leave to appeal; App.R. 5; motion to dismiss indictment; R.C. 2950.04(A)(1)(a); Megan's Law; completion of prison sentence.*

The trial court properly denied appellant's motion to dismiss the

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indictment. Appellant was required to register under R.C. 2950.04(A)(1)(a) because, contrary to his assertion, he had not completed his prison term before July 1, 1997. His prison sentence had been resumed when he returned to prison for parole violations.

114184 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
WELLS FARGO BANK, N.A. v CYNTHIA LUNDEEN, ET AL.

Affirmed.

Emanuella D. Groves, J., Eileen A. Gallagher, A.J., and Eileen T. Gallagher, J., concur.

KEY WORDS: Confirmation of sale; R.C. 2329.021 et seq.; res judicata; law of the case; foreclosure.

Appellant's attempts to challenge the decree of foreclosure were barred by the law- of-the-case doctrine, waiver, and res judicata; accordingly, the only issue before the court of appeals was whether the trial court abused its discretion when it confirmed the sale of the property.

The trial court did not abuse its discretion in confirming the sale where the appellant failed to challenge the valuation of the property or challenge appellee's compliance with R.C. 2329.021 et seq., before the trial court.

114195 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v ELLORD WELLS

Affirmed.

Lisa B. Forbes, P.J., Mary J. Boyle, J., and Anita Laster Mays, J., concur.

KEY WORDS: Nunc pro tunc; denial; resentencing; postrelease control; Tier III; sex offender; jurisdiction; presumption of regularity; sentencing entry.

Trial court did not err in denying defendant-appellant's request for a nunc pro tunc order of a sentencing entry when nothing in the record indicated that there was an error or omission in the sentencing entry that required correction through a nunc pro tunc order.

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114243 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v TERRANCE DAVIS

Reversed and remanded.

Emanuella D. Groves, J., Eileen A. Gallagher, A.J., and Eileen T. Gallagher, J., concur.

KEY WORDS: *Conceded error; effective assistance of counsel; conflict of interest.*

Our review of the record reveals a clear conflict of interest exists in this case; assigned defense counsel for the defendant's community-control violation hearing was previously the State's prosecuting attorney in the same matter. Judgment reversed and remanded to the trial court for the assignment of new defense counsel and a community-control violation hearing.

114441 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
MEGALIGHT, INC. v RELIABLE FINAL MILE TRANSPORT, LLC

Reversed and remanded.

Eileen T. Gallagher, J., Eileen A. Gallagher, A.J., and Emanuella D. Groves, J., concur.

KEY WORDS: *Summary judgment; warehouse lien; breach of contract; Civ.R. 56(F).*

Trial court erred in granting plaintiff's motion for summary judgment and awarding damages when there were genuine issues of material fact as to whether plaintiff breached the parties' contract and as to the amount of damages if any.

114445 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: S.S., ET AL.

Affirmed.

Mary J. Boyle, J., Lisa B. Forbes, P.J., and Michael John Ryan, J., concur.

KEY WORDS: *Parental rights, permanent custody, legal custody, R.C. 2151.353(A)(3), R.C. 2151.011(B)(21), best interest, abuse of discretion, manifest weight, R.C. 2151.414(D), R.C. 3109.04(F), R.C. 2151.414(B)(1), R.C. 2151.414(D)(2), clear and convincing evidence, R.C. 2151.414(E).*

Judgments affirmed. The trial court did not abuse its discretion when it awarded Father legal custody of the youngest child, because it was in the best interest of the child to be in a stable and

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loving environment. Further, granting permanent custody of the oldest child to the Agency was not against the manifest weight of the evidence, when Mother did not sufficiently remedy her mental-health issues, which caused the removal of her children, and it was in the child's best interest to live in a safe and stable environment.

114453 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: T.M., ET AL.

Affirmed.

Michael John Ryan, J., Emanuella D. Groves, P.J., and Anita Laster Mays, J., concur.

KEY WORDS: *Permanent custody; reasonable efforts; child in the temporary custody of agency for 12 or more months of a consecutive 22-month period; children "cannot or should not" be returned to parent; parent demonstrated a "lack of commitment"; permanent custody to agency in children's best interest.*

Judgment affirmed. *The record demonstrates that the agency made reasonable efforts to reunite mother with her children and the juvenile court documented those efforts throughout the case. Clear and convincing evidence supported the juvenile court's finding that the children cannot or should not be returned to mother and that mother had a lack of commitment toward the children. The record demonstrates that it was in the best interest of the children to grant the agency's motion for permanent custody.*