

## CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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May 1, 2025

<b>113759</b>	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v MARK A. BENSON, JR.			

Affirmed in part, reversed in part, and remanded.

Michael John Ryan, P.J., and Anita Laster Mays, J., concur; Deena R. Calabrese, J., concurs in part and dissents in part (with separate opinion).

**KEY WORDS:** *Gun specifications; sufficiency of the evidence.*

*Judgment affirmed in part, reversed in part, and remanded. A gun specification and whether the offender was armed with a gun in the commission of an offense are distinct considerations. The evidence was insufficient to sustain firearm specifications for an assault that occurred before the defendant told the victim to get her gun. The evidence was also insufficient to sustain the gun specification for an incident that occurred when the defendant and victim were removed from the place where the gun was under the defendant's control and the defendant did not threaten the victim by stating he had the gun.*

<b>113988</b>	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v MICHAEL RAMIREZ			

Affirmed in part, vacated in part, and remanded.

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

**KEY WORDS:** *Hybrid sentences, community-control sanction, child-support order, invited-error doctrine, motion to withdraw a guilty plea.*

*Ramirez appeals the journal entry sentencing him to 11 months in prison for attempted unlawful sexual conduct with a minor and requiring him to pay child support while incarcerated. The child-support order is a community-control sanction, which cannot be imposed along with a prison term for a felony offense. Ramirez did not "invite" this sanction under the invited-error doctrine because it was not part of the settlement agreement the parties presented to the court. The court also did not abuse its discretion in denying Ramirez's motion to withdraw his guilty plea. The 11-month sentence was less than the maximum authorized for a fifth-degree felony, and the record did not support Ramirez's claims that the court was swayed by emotion, failed to adequately consider his request, or that he was under the influence of medication during his sentencing hearing.*

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<b>114100</b>	COMMON PLEAS COURT	A	Criminal C.P.
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STATE OF OHIO v JASPER FIELD, JR.

Affirmed.

Mary J. Boyle, J., Eileen A. Gallagher, A.J., and Michelle J. Sheehan, J., concur.

**KEY WORDS:** *Speedy-trial rights; R.C. 2945.71; tolling events; evidentiary hearing; reasonableness.*

**Judgment affirmed.** *Appellant's speedy-trial rights were not violated because the record is replete with multiple, often overlapping, tolling events. Furthermore, reasonable continuances granted at the State's request toll time. Finally, the trial court is not required to hold an evidentiary hearing when the trial court is able to determine the speedy-trial issue from the record before it.*

<b>114108</b>	DOMESTIC RELATIONS	F	Civil C.P.-Juv, Dom, Probate
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T.C. v R.B.C.

Affirmed.

Michelle J. Sheehan, P.J., Emanuella D. Groves, J., and Mary J. Boyle, J., concur.

**KEY WORDS:** *Divorce; marital debt; valuation of property; allocation of debt; res judicata; abuse of discretion; de novo.*

**An expert real estate appraiser's valuation of a parcel of property as of the date of the marriage was competent, credible evidence on which a trial court can base its valuation of the property.**

**The trial court did not abuse its discretion by adopting a magistrate's order, allocating each party to be responsible for debt they incurred in their own names.**

**The doctrine of res judicata does not apply where the proponent failed to present valid evidence of a final and valid determination of an issue in a prior proceeding.**

<b>114137</b>	COMMON PLEAS COURT	E	Civil C.P.-Not Juv, Dom Or Prob
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CHRISTINE ZELE v THE OHIO BELL TELEPHONE COMPANY

Affirmed.

Eileen T. Gallagher, P.J., Kathleen Ann Keough, J., and William A. Klatt, J.,\* concur.

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

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(Case 114137 continued)

**KEY WORDS:** Motion to enforce; settlement agreement; apparent authority; attorney fees; App.R. 12(A)(2); App.R. 16(A)(7).

**Trial court's judgment enforcing settlement agreement affirmed where evidence showed that appellant's attorneys had apparent authority to bind her to the terms of the settlement agreement.**

**Appellant's argument that the trial court made erroneous evidentiary rulings overruled where she failed to make an argument with citations to legal authorities.**

<b>114159</b>	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v BRANDON THOMPSON			

Affirmed and remanded.

Sean C. Gallagher, J., and Kathleen Ann Keough, J., concur; Michael John Ryan, P.J., concurs in part and dissents in part (with separate opinion).

**KEY WORDS:** *Substantial impairment rape; lesser-included offense; R.C. 2907.05(A)(5); R.C. 2907.02(A)(2); nunc pro tunc.*

**The trial court's journal entries did not reflect the proper statutory section for which the defendant was found guilty after a bench trial, and therefore, those entries could be corrected under Crim.R. 36.**

<b>114209</b>	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v TAHAD SMITH			

Affirmed.

Mary J. Boyle, P.J., Michael John Ryan, J., and Anita Laster Mays, J., concur.

**KEY WORDS:** *Plea advisement; Dangler; prejudice; Reagan Tokes Law; R.C. 2929.144; Crim.R. 11; maximum sentence; complete failure.*

**Judgment affirmed. Appellant's plea was knowingly, intelligently, and voluntarily entered, despite the trial court not specifically advising appellant that he was subject to an indefinite sentence under Reagan Tokes. Because we found that the trial court's advisement was not a complete failure to advise of the maximum penalty under Crim.R. 11(C), appellant was required to prove prejudice. Appellant did not establish that he was prejudiced.**

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**114219** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
GEORGEANNA M. SEMARY v LESLIE ANN CELEBREZZE, ET AL.

Reversed and remanded.

John J. Eklund, J.,\* Robert J. Patton, P.J.,\* and Eugene A. Lucci, J.,\* concur.

(\*Sitting by assignment: Eleventh District Court of Appeals.)

**KEY WORDS:** *Civil liability for criminal acts; R.C. 2307.60; notice pleading; Civ.R. 8; judgment on the pleadings; Civ.R. 12(C).*

**114251** JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate  
IN RE: A.J.

Affirmed.

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

**KEY WORDS:** *Plain error; abused and dependent child; multiple sexual abuse exams; legal custody; case-plan requirements; mental-health assessment; parenting classes; visitation restrictions; best interests of the child; removal of child; reasonable efforts to prevent removal/reunify; incomplete investigation; sexual abuse allegations; failure to reappoint counsel; medical abuse.*

*The trial court did not err in adjudicating the child as abused and dependent and granting legal custody to Father. Mother was represented by counsel after the case was remanded to the trial court. Mother failed to object to the magistrate's decision finding the child abused and dependent and did not argue plain error. The trial court properly found that granting custody to Father was in the child's best interest.*

**114300** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v SAID MAHALI

Affirmed.

Kathleen Ann Keough, J., Eileen T. Gallagher, 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:** *Trespass into a habitation when a person is present or likely to be present; R.C. 2911.12(B); R.C. 2911.12(E); Crim.R. 29; sufficiency of the evidence.*

*Judgment affirmed. The trial court did not err in denying*

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(Case 114300 continued)

**defendant's motion for acquittal pursuant to Crim.R. 29. Sufficient evidence existed upon which the jury could have found that the defendant was not privileged to enter the premises and that a person was present or likely to be present at the time of the trespass.**

**114309** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
HOLLIS LYNCH v FIG AS CUSTODIAN FOR FIG OH18, LLC, ET AL.

Affirmed in part, reversed in part, and remanded.

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

**KEY WORDS: Quiet title; adverse possession; subject-matter jurisdiction; jurisdiction; probate court; probate; will; title; general division; common pleas court; bequeath; property; foreclosure.**

***Affirmed in part and reversed in part. The general division of common pleas court did not err when it sua sponte dismissed plaintiff-appellant's quiet-title claim for lack of subject-matter jurisdiction, since the quiet-title claim was based upon a will that had yet to be probated and, therefore, needed to proceed through probate court. The general division of common pleas court did err, however, when it sua sponte dismissed plaintiff-appellant's adverse-possession claim because the adverse-possession claim was not based on any theory that title passed through the will.***

**114351** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
SHIFTMED, LLC v WESTCHESTER PARKWAY CONSULTING, LLC, ET AL.

Reversed and remanded.

Michelle J. Sheehan, J., Eileen A. Gallagher, A.J., and Mary J. Boyle, J., concur.

**KEY WORDS: Service of process; failure of service; rebuttal presumption of proper service; personal jurisdiction.**

***Judgment reversed. The trial court abused its discretion in failing to set aside the default judgment entered against defendant Goldner. Service of process was not effective on the facts of this case, and consequently, the court lacked personal jurisdiction over defendant Goldner. Therefore, the default judgment was void and should have been vacated by the trial court.***

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**114363** COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob  
ANN M. KOZ v VILLAGE OF NEWBURGH HEIGHTS

Affirmed.

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

**KEY WORDS:** *Civ.R. 12(C); judgment on the pleadings; R.C. Ch. 2744; political-subdivision immunity.*

**Affirmed.** *The trial court did not err in denying the motion for judgment on the pleadings because the political subdivision failed to assert immunity as an affirmative defense and presented a factual question arising from an unverified allegation in the answer as the basis of the immunity defense.*

**114406** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v MATTHEW HENDRIX

Affirmed.

Kathleen Ann Keough, J., Eileen T. Gallagher, 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:** *Sufficiency of the evidence; manifest weight; rape; under the age of 13; dates; details; credibility.*

**Appellant's convictions for rape and attempted rape of children under the age of 13 were supported by sufficient evidence and not against the manifest weight of the evidence because the victims testified about general time periods of the sexual assaults and provided details to allow the trier of fact to determine guilt. The jury was also able to assess the credibility of the victims against the testimony of the appellant.**

**114417** COMMON PLEAS COURT A Criminal C.P.  
STATE OF OHIO v DENVER PRUITT

Affirmed.

Anita Laster Mays, J., Mary J. Boyle, P.J., and Michael John Ryan, J., concur.

**KEY WORDS:** *Guilty plea; Crim.R. 11(C)(2)(c); R.C. 2943.032.*

**The appellant's pleas were made knowingly, intelligently, and voluntarily because the trial court fully complied with Crim.R. 11(C)(2)(c) and R.C. 2943.032(A), which require the trial court to**

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(Case 114417 continued)

**inform the defendant personally of the penalties that could be imposed if the defendant violates the conditions of their postrelease-control sanction. The trial court fully advised the appellant of his postrelease-control sanctions.**