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Court of Appeals, Eighth Appellate District

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May 22, 2025

114071 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
ARLENE PINCUS, EXECUTOR v HELENE FRUM PINCUS, ET AL.

Affirmed in part, reversed in part, and remanded.

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

KEY WORDS: *Statute of limitations; saving statute; R.C. 2305.19; one-use restriction; fraudulent transfer; R.C. 1336.09; double-dismissal rule.*

Judgment affirmed in part and reversed in part. The saving statute, R.C. 2305.19, does not save claims that are refiled a second time after the expiration of the statute of limitations. Accordingly, the trial court did not err in granting defendants' motion for judgment on the pleadings based on the defense of statute of limitations as to plaintiff's claims that had been refiled twice outside the statute of limitations. The trial court did err in granting judgment on the pleadings for plaintiff's claims that were refiled only once outside of the statute of limitations because the saving statute applied to those claims.

114090 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v MARCUIECE JOHNSON

Affirmed.

Deena R. Calabrese, J., Eileen A. Gallagher, A.J., and Emanuella D. Groves, J., concur.

KEY WORDS: *Anders brief; subject-matter jurisdiction; personal jurisdiction; motion to withdraw guilty plea; plea colloquy; Crim.R. 11(C); victim-impact statement; Evid.R. 101(C); Marsy's Law.*

Affirmed. Motion to withdraw pursuant to Anders v. California, 386 U.S. 738 (1967), granted, where there are no meritorious grounds for appeal. Trial court's judgment affirmed following review of appellant's pro se brief, wherein he argued that venue and jurisdiction were improper, that the trial court erred in overruling his motion to withdraw his guilty plea, that his plea was not knowingly, voluntarily, and intelligently given, and that the trial court erred when it allowed hearsay victim testimony in a victim-impact statement to be read in open court.

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114147	DOMESTIC RELATIONS	F	Civil C.P.-Juv, Dom, Probate
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S.S v T.M.

Affirmed.

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

KEY WORDS: *Shared parenting plan, modification, terms, decree, R.C. 3109.04(E); medical-decision-making-authority; change of circumstances; best interest of the child; R.C. 3109.04(F); abuse of discretion; manifest-weight-of-the-evidence.*

Judgment affirmed. *The trial court did not abuse its discretion by modifying the medical-decision-making term in the shared parenting plan. The trial court considered the appropriate factors when determining that it was in the best interest of the child to modify the term. Further, a trial court need not make a “change of circumstances” finding when modifying a term of the shared parenting plan. The trial court’s decision was supported by the manifest weight of the evidence.*

114231	COMMON PLEAS COURT	A	Criminal C.P.
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STATE OF OHIO v HOSEA SIMMONS

114232	COMMON PLEAS COURT	A	Criminal C.P.
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STATE OF OHIO v HOSEA SIMMONS

114233	COMMON PLEAS COURT	A	Criminal C.P.
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STATE OF OHIO v HOSEA SIMMONS

114234	COMMON PLEAS COURT	A	Criminal C.P.
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STATE OF OHIO v HOSEA SIMMONS

114235	COMMON PLEAS COURT	A	Criminal C.P.
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STATE OF OHIO v HOSEA SIMMONS

Affirmed.

Sean C. Gallagher, J., Michelle J. Sheehan, P.J., and Anita Laster Mays, J., concur.

KEY WORDS: *Guilty pleas; breaking and entering; theft; criminal damaging or endangering; multiple cases; Crim.R. 11(C); Crim.R. 11(C)(2)(b); complied; prejudice; consecutive sentences; R.C. 2953.08(G)(2); R.C. 2929.14(C)(4); multiple offenses; violated; community control; criminal history; findings; support.*

Affirmed the trial court’s judgment in each of the cases appealed, including appellant’s convictions and sentences, as well as the court’s imposition of consecutive sentences between the five cases. The record demonstrated the trial court’s compliance with Crim.R. 11(C), and appellant failed to demonstrate error under Crim.R. 11(C)(2)(b) or any prejudice in relation to his claimed error. The trial

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court made the requisite findings for imposing consecutive sentences pursuant to R.C. 2929.14(C)(4), and it could not be clearly and convincingly found that the evidence did not support the trial court's findings.

114248	JUVENILE COURT DIVISION	F	Civil C.P.-Juv, Dom, Probate
IN RE: R.T.			

Affirmed.

Eileen A. Gallagher, A.J., Emanuella D. Groves, J., and Deena R. Calabrese, J., concur.

KEY WORDS: Custody granted; to mother; from paternal grandmother; child's best interest; R.C. 2151.414(D)(1)(a)-(d); R.C. 2151.23(A)(2); R.C. 2151.42(B); modification of custody; termination of custody; R.C. 3109.04(F)(1).

Paternal grandmother appeals the trial court's judgment terminating her custody of granddaughter R.T. and granting legal custody to R.T.'s mother. We find trial court properly granted legal custody of R.T. to mother from paternal grandmother since it was in the best interest of the child. The evidence put forth at the custody hearing established that paternal grandmother was significantly interfering with mother's parenting time and that custody with grandmother was no longer in the best interests of the child. Grandmother's two assignments of error are overruled.

114261	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v NICHOLAS HUTCHINS			

Affirmed.

Anita Laster Mays, J., Eileen A. Gallagher, A.J., and Lisa B. Forbes, J., concur.

KEY WORDS: Mandatory bindover; unconstitutional statutes; Reagan Tokes Law.

The Supreme Court of Ohio has previously held that the juvenile bindover statutes are not unconstitutional and do not violate due-process and equal-protection rights. The Supreme Court of Ohio has held that the Reagan Tokes Law is not unconstitutional.

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114378 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
STATE OF OHIO v S.D.F.

Affirmed.

William A. Klatt, J.,* Sean C. Gallagher, P.J., and Deena R. Calabrese, J., concur.

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

KEY WORDS: *Application to seal a conviction; R.C. 2953.32; applicant's burden; sufficient evidence or testimony by applicant; abuse of discretion.*

The trial court did not abuse its discretion when it denied defendant-appellant's application to seal his record of convictions pursuant to R.C. 2953.32. Although the trial court summarily denied the defendant-appellant's application, the defendant-appellant failed to introduce evidence or testimony at the sealing hearing - except for his attorney's comments - upon which the trial court could have determined whether his application met the requirements of R.C. 2953.32.

114398 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE: N.B.

Affirmed.

Sean C. Gallagher, P.J., Deena R. Calabrese, J., and William A. Klatt, J.,* concur.

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

KEY WORDS: *Legal custody; dependent; R.C. 2151.353(A); R.C. 2151.353(F)(2); dispositional hearing; manifest weight; best interest; factors; preponderance; substance abuse; dishonesty; fundamental right; parent; ultimate welfare; Sup.R. 48.03(D); guidelines; plain error.*

Affirmed juvenile court's judgment that committed the minor child to the legal custody of the child's nonrelative caregiver. The juvenile court considered relevant best-interest factors and granted legal custody as supported by a preponderance of the evidence. The juvenile court's decision was not against the manifest weight of the evidence; the court did not violate father's fundamental right to parent his child; and the court did not commit plain error in considering the report and recommendation of the guardian ad litem despite claimed deficiencies under Sup.R. 48.03(D), which only provides general guidelines.

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114412 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
STATE OF OHIO v D.G.

Vacated and remanded.

Eileen A. Gallagher, A.J., Michelle J. Sheehan, J., and Deena R. Calabrese, J., concur.

KEY WORDS: *Trial judge; conflict of interest; prosecutor; expungement; vacated; remanded.*

We find there was a conflict of interest for the trial court judge to hear appellant's expungement application since the presiding judge was also the prosecutor for appellant's original underlying criminal case from 2001. Judgment denying expungement motion is vacated and matter is remanded to the lower court to be assigned to a judge without a conflict who can hear the motion.

114420 DOMESTIC RELATIONS F Civil C.P.-Juv, Dom, Probate
HEATHER RICHMOND v PETER J. EVANS

Affirmed.

Emanuella D. Groves, J., Eileen A. Gallagher, A.J., and Deena R. Calabrese, J., concur.

KEY WORDS: *Modification of spousal support; due process; exclusion of testimony/evidence; magistrate's decision; R.C. 2315.01(A).*

Trial court did not abuse its discretion when it adopted magistrate's decision where magistrate ruled prior to appellant's completing her case-in-chief. The litigation had been ongoing for six years; appellant had made little to no progress in, presenting her case; failed to appear at the final trial date; and filed an appeal, which the Supreme Court deemed frivolous. Given the totality of the circumstances, the decision did not violate appellant's right to due process and it did not violate the order of case presentation under R.C. 2315.01(A).

Trial court's order merely prevented appellant from presenting medical records and/or expert testimony when she failed to provide discovery relative to same pursuant to the court's order. The trial court's order did not prevent appellant from testifying; accordingly, the order was not an abuse of discretion.

Trial court did not abuse its discretion in denying appellant's motions to modify spousal support when she failed to establish a substantial change in circumstances that was not contemplated at the time of the divorce decree.

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114495	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v HALIMAH BURNETT			

Reversed and vacated.

Emanuella D. Groves, J., Eileen A. Gallagher, A.J., and Deena R. Calabrese, J., concur.

KEY WORDS: *Insufficient evidence; identity.*

Judgment reversed, conviction vacated, and defendant discharged. Our review of the record reveals that the State presented insufficient evidence that the defendant perpetrated the crimes charged. Viewing the evidence in a light most favorable to the prosecution, we cannot say that any rational trier of fact could have found that the defendant's identity was proven beyond a reasonable doubt.

114634	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v TIMMY CHAMBERS, JR.			

114635	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v TIMMY CHAMBERS, JR.			

114636	COMMON PLEAS COURT	A	Criminal C.P.
STATE OF OHIO v TIMMY CHAMBERS, JR.			

Vacated and remanded.

Anita Laster Mays, J., and Emanuella D. Groves, J., concur; Michelle J. Sheehan, P.J., concurs in part and dissents in part (with separate opinion).

KEY WORDS: *Conceded error; Loc.App.R. 16(B); R.C. 2967.191; jail-time credit.*

The trial court's application of the total amount of jail-time credit in each of three cases was in error. A defendant is not entitled to an application of the full amount of jail-time credit separately to multiple convictions in a way that results in receiving the full amount more than once.

114663	JUVENILE COURT DIVISION	F	Civil C.P.-Juv, Dom, Probate
IN RE C.H.			

Reversed and remanded.

Michael John Ryan, J., Michelle J. Sheehan, P.J., and Kathleen Ann Keough, J., concur.

KEY WORDS: *Permanent custody; magistrate's decision; transcript;*

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objections to magistrate's decision.

Judgment reversed. The juvenile court abused its discretion by prematurely adopting the magistrate's decision without waiting for the transcript to be submitted in order to conduct the independent review required by Juv.R. 40(D)(4)(d).

114698	JUVENILE COURT DIVISION	F	Civil C.P.-Juv, Dom, Probate
IN RE J.D.			

Affirmed.

Emanuella D. Groves, J., Michelle J. Sheehan, P.J., and Kathleen Ann Keough, J., concur.

KEY WORDS: *Permanent custody; R.C. 2151.414(E); R.C. 2907.05 and 2919.22(A).*

Juvenile court's finding that the child had not been in the custody of the agency for 12 months out of the past 22 consecutive months and that the child could not and should not be returned to the custody of the parent was supported by clear and convincing evidence where there was a documented history of substance abuse; appellant was in jail for a crime where the victim was one of the child's siblings; and the crimes were in violation of R.C. 2907.05 and 2919.22(A). Additionally, the juvenile court was not required to extend temporary custody for the full two years, where the record did not support a finding that the parent had made significant progress on the case plan, or that there was reasonable cause to believe that the child would be reunified with the parent within the extension period.