

## CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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December 3, 2020

**108524** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v ANTONIO SAYLES

Affirmed.

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

**KEY WORDS:** *Ineffective assistance of counsel; plea agreement; sentencing exposure; Crim.R. 7(D); conform; sexual assault; dates; amendment; indictment; Evid.R. 803(4); medical examinations; SANE; social worker; vouch; credulity; lay witness; victim impact; veracity.*

*Defendant did not receive ineffective assistance of counsel during the plea discussion when it was alleged that counsel did not advise him about his sentencing exposure if he was found guilty. The trial court did not err in its plea discussion when it did not advise defendant of mandatory consecutive sentences because the defendant rejected the plea agreement. Trial counsel was not ineffective for failing to object to a proper Crim.R. 7(D) amendment to the indictment when the state amended the dates of the sexual assaults to conform to the evidence. Trial counsel was not ineffective for failing to object to the SANE nurse's testimony concerning statements made by the victims during the examinations because they were proper for medical diagnosis and treatment. Counsel was not ineffective for failing to object to the victims' social worker's testimony that allegedly vouched for the victims' credibility and was improper victim impact evidence. Any error in allowing mother to vouch for a victim's credibility was harmless because the victim testified and medical evidence supported her allegation.*

**109139** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
WILLARD E. BARTEL ADMINISTRATOR, ET AL. v FARRELL LINES INC., ET AL.

Affirmed.

Anita Laster Mays, P.J., Frank D. Celebrezze, Jr., J., and Kathleen Ann Keough, J., concur.

**KEY WORDS:** *Motion to reinstate case; R.C. 2307.92.*

*The trial court did not err when it granted the appellees' motion to reinstate their smoking lung cancer case to the active docket because the appellees' prima facie evidentiary submission was sufficient to satisfy the statutory requirements of R.C. 2307.92.*

## CASE DECISION LIST

**109235** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v SANFORD D. DOSS

Affirmed.

Sean C. Gallagher, P.J., Patricia Ann Blackmon, J., and Eileen A. Gallagher, J., concur.

**KEY WORDS:** *Aggravated vehicular assault; operating vehicle while intoxicated; suppression; no contest plea; mandatory sentence; prejudice; admissibility of field sobriety tests; waiver; probable cause to arrest.*

*The defendant was not prejudiced by the trial court's inadvertent error in advising of the potential that a prison term would not be imposed because it is undisputed that all parties were aware that a prison term would be imposed, and the trial court did not err by permitting the state to rely on the results of the field sobriety tests because the defendant failed to challenge the admissibility of the test results at the suppression hearing.*

**109271** COMMON PLEAS COURT A CRIMINAL C.P.  
STATE OF OHIO v ADAM SHANNON

Affirmed.

Eileen A. Gallagher, J., and Patricia Ann Blackmon, J., concur; Sean C. Gallagher, P.J., concurs with separate opinion.

**KEY WORDS:** *R.C. 2953.08(G)(2); clearly and convincingly unsupported by the record; contrary to law; R.C. 2929.14(C)(4); imposition of consecutive sentences; commission of new offenses while on judicial release; R.C. 2929.14(C)(4)(a); conduct; R.C. 2953.08(D)(1); agreed sentence; H.B. 49; R.C. 2929.34(B)(3)(c)-(d).*

*Imposition of consecutive prison sentences was not clearly and convincingly unsupported by the record or contrary to law. Trial court was not limited to consideration of the facts associated with the specific offenses to which defendant pled guilty in determining whether consecutive sentences were warranted. "Spirit" of H.B. 49 did not preclude trial court from imposing consecutive prison sentences where defendant agreed to a prison sentence as a condition of plea agreement and offenses to which defendant pled guilty included drug trafficking offenses. R.C. 2929.24(C) had no application to the fourth- and fifth-degree felonies to which defendant pled guilty.*

## CASE DECISION LIST

**109279** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
AMANDA FAYAK v UNVERSITY HOSPITALS, ET AL.

Affirmed.

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

**KEY WORDS:** *Summary judgment; discrimination; limitations; contractual limitations; shortened; employment application; enforceable; reasonable; employment-related claims; arguments; first time; appeal.*

*Affirmed the trial court's decision to grant summary judgment on employment-related claims that were untimely filed and barred by a six-month limitations period contained in appellant's employment application. The provision was found reasonable and enforceable under Ohio law. Some of the arguments were not addressed because a party who does not raise an issue in the trial court may not ordinarily raise that issue for the first time on appeal.*

**109650** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
AMERICREDIT FINANCIAL SERVICES, D.B.A. GM FINANCIAL v MARIO D. BLUE

Affirmed.

Sean C. Gallagher, P.J., Patricia Ann Blackmon, J., and Eileen A. Gallagher, J., concur.

**KEY WORDS:** *Summary judgment; standing; de novo; retail installment sale contract; breach of contract; complaint; plaintiff; R.C. 1329.10(B); R.C. 1329.01; registered; trade name; jurisdiction.*

*Affirmed trial court's decision to grant summary judgment in favor of the plaintiff where the defendant breached the terms of a retail installment sale contract. The naming of the plaintiff by its registered trade name in the initial complaint did not deprive the trial court of jurisdiction in this matter; the plaintiff had standing to file suit; and the amended complaint corrected any error in the captioning of the complaint.*

**109690** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
MOHAMMAD TABBAA v LEXPRO LLC, ET AL.

**109691** COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO  
MOHAMMAD TABBAA v LEXPRO LLC, ET AL.

Affirmed.

Sean C. Gallagher, J., Eileen T. Gallagher, A.J., and Larry A. Jones, Sr., J., concur.

***KEY WORDS: Declaratory Judgment Act; R.C. Chapter 2721; scope; Civ.R. 12(B)(6); dismissal; justiciable controversy; Loc.App.R. 23; sanctions.***

***The trial court did not err in dismissing the complaint seeking declaratory relief under R.C. Chapter 2721 because the relief sought was outside the scope of the Declaratory Judgment Act and there was no allegation demonstrating the existence of a justiciable controversy.***