

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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February 21, 2019

106784 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v RAMONE GAINES

Affirmed.

Frank D. Celebrezze, Jr., J., Eileen A. Gallagher, P.J., and Mary Eileen Kilbane, A.J., concur.

KEY WORDS: *Community control sanctions; violation; probable cause; revocation; due process; plain error; Crim.R. 52; misdemeanor sentence; R.C. 2929.21; R.C. 2929.22; consecutive sentences; R.C. 2929.41(B).*

The trial court's revocation of appellant's community control sanctions did not violate appellant's due process rights. The trial court did not abuse its discretion in imposing consecutive six-month sentences on appellant's first-degree misdemeanor convictions.

106813 COMMON PLEAS COURT A CRIMINAL C.P.
STATE OF OHIO v ESTEPHEN CASTELLON

Affirmed.

Larry A. Jones, Sr., P.J., Kathleen Ann Keough, J., and Michelle J. Sheehan, J., concur.

KEY WORDS: *Sufficiency; manifest weight; ineffective assistance of counsel; cumulative error; right to self-representation.*

The record shows that sufficient evidence was presented to support the convictions for rape and kidnapping; the trier of fact was in the best position to determine credibility. The convictions were not against the manifest weight of the evidence.

Appellant has failed to show that but for counsel not subpoenaing for translator testimony that the outcome of the trial would have had a different result. Appellant's counsel's representation did not fall below a reasonable standard performance.

There were not multiple errors committed at the trial level thus appellant's cumulative error argument fails.

Appellant's request to represent himself was untimely, and it was shown that appellant did not fully understand all of the questions asked of him by the trial court. Appellant's right to waive his right to counsel would not have been knowingly and intelligently made.

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106952	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v DARIUS KINNEY			

Affirmed.

Frank D. Celebrezze, Jr., J., Eileen T. Gallagher, P.J., and Raymond C. Headen, J., concur.

KEY WORDS: *Ineffective assistance of counsel; motion to suppress; consecutive sentences; R.C. 2929.14(C)(4).*

Appellant was not denied his constitutional right to the effective assistance of counsel. The trial court did not err in imposing consecutive sentences because it complied with R.C. 2929.14(C)(4) and made the requisite consecutive sentence findings.

106979	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v PIERSON REYNOLDS, JR.			

Affirmed.

Anita Laster Mays, P.J., and Michelle J. Sheehan, J., concur; Eileen A. Gallagher, J., concurs in judgment only.

KEY WORDS: *Plea agreement; void; lack of capacity.*

Because the appellant was deemed incompetent to stand trial, he lacked the capacity to enter into a plea agreement with the state, rendering the original agreement void.

107031	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v KENNETH W. SMITH			

Affirmed.

Frank D. Celebrezze, Jr., J., and Stephen A. Yarbrough, J.,* concur; Mary J. Boyle, P.J., concurs in judgment only.

* (Sitting by Assignment: Retired Judge Stephen A. Yarbrough of the Sixth District Court of Appeals.)

KEY WORDS: *R.C. 2907.05(A)(4); right to counsel; potential conflict of interest; Crim.R. 11; guilty plea; motion to withdraw guilty plea; ineffective assistance of counsel.*

Appellant was not denied his right to counsel because the trial court obtained a voluntary, intelligent, and knowing waiver of the potential conflict of interest regarding appellant's trial counsel's representation. Appellant's plea was knowingly, intelligently, and

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(Case 107031 continued)

voluntarily entered. The trial court did not abuse its discretion in denying appellant's oral motion to withdraw his plea. Appellant was not denied his constitutional right to the effective assistance of counsel.

107126	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v MARVIN F. JOHNSON, SR.			

Affirmed and remanded.

Mary J. Boyle, J., Mary Eileen Kilbane, A.J., and Raymond C. Headen, J., concur.

KEY WORDS: Res judicata; jail-time credit; motion to withdraw no contest plea.

The trial court's judgment reinstating defendant's original sentence was affirmed. Defendant's arguments regarding the voluntariness of his plea, his sentence, and jail-time credit were barred by res judicata. Defendant's argument regarding his motion to withdraw his plea was sustained because the trial court never considered this motion. Case remanded for the trial court to consider the merits of defendant's motion to withdraw his plea.

107197	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v ARROYAL M. HALL			

Affirmed.

Frank D. Celebrezze, Jr., J., Mary J. Boyle, P.J., and Larry A. Jones, Sr., J., concur.

KEY WORDS: Crim.R. 11(F); guilty plea; plea agreements; ineffective assistance of counsel.

Crim.R. 11(F) was not violated because, at the change of plea hearing, the prosecutor and appellant's counsel both outlined their understanding of the plea agreement. Appellant's counsel was not ineffective because he successfully negotiated a plea agreement.

107199	BOARD OF TAX APPEALS	H	ADMIN APPEAL
ORANGE CITY SCHOOLS BOARD OF EDUCATION, ET AL. v CUYAHOGA COUNTY BOARD OF REVISION, ET AL.			

Affirmed.

Eileen T. Gallagher, J., Mary Eileen Kilbane, A.J., and Sean C. Gallagher, J., concur.

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KEY WORDS: *Real property; personal property; membership interest; stock; arm's length transaction; sale of real property; ad valorem taxation; limited warranty deed; sale and purchase agreement.*

Board of Tax Appeals properly determined that sale of the membership in a limited liability company coupled with simultaneous transfer of real property and nothing else was a sale and transfer of real property in an arm's length transaction for the purposes of ad valorem taxation.

Since an actual, recent sale of real property in an arm's length transaction is the best evidence of the property's true value, an appraisal was not necessary to establish the property's value.

107229 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
JOHN DOE, ET AL. v CONTEMPORARY SERVICES CORPORATION, ET AL.

Affirmed.

Frank D. Celebrezze, Jr., J., Eileen T. Gallagher, P.J., and Raymond C. Headen, J., concur.

KEY WORDS: *Motion to compel arbitration; contract; contractual capacity; ratification; R.C. 2711.02.*

The trial court did not err in granting appellees' motion to stay proceedings and compel arbitration. The record reflects that a valid and enforceable arbitration agreement existed because it had been ratified by appellant's guardian.

107247 COMMON PLEAS COURT E CIVIL C.P.-NOT JUV,DOM OR PRO
THERESA AUSTIN v CUYAHOGA METROPOLITAN HOUSING AUTHORITY

Affirmed.

Larry A. Jones, Sr., J., Mary J. Boyle, P.J., and Frank D. Celebrezze, Jr., J., concur.

KEY WORDS: *Administration appeal; CMHA voucher program; participant compliance.*

It was not error for the trial court to consider the entire record that included documentation that was not included in the administrative record. Sufficient facts supported the trial court's decision.

The trial court did not abuse its discretion where it considered mitigating factors and overruled the hearing officer's decision.

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107456	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v RONELLE R. TAYLOR			

Affirmed.

Patricia Ann Blackmon, J., Eileen T. Gallagher, P.J., and Michelle J. Sheehan, J., concur.

KEY WORDS: *Motion to withdraw guilty plea, ineffective assistance of counsel.*

Appellant's convictions affirmed because the court has no jurisdiction to vacate a guilty plea after direct appeal has been affirmed. Appellant failed to present any evidence that his counsel's performance was ineffective.

107472	JUVENILE COURT DIVISION	F	CIVIL C.P.-JUV, DOM, PROBATE
IN THE MATTER OF: I.S., ET AL.			

Affirmed.

Frank D. Celebrezze, Jr., P.J., Larry A. Jones, Sr., J., and Kathleen Ann Keough, J., concur.

KEY WORDS: *Permanent custody; manifest weight; best interest; R.C. 2151.414.*

The trial court's determination that permanent custody is in the children's best interest is supported by clear and convincing evidence in the record. Accordingly, the trial court's judgment granting permanent custody of the children to appellee is affirmed.