

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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January 24, 2019

106590	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v TREMELE COLLINS			

107341	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v TREMELE COLLINS			

Affirmed.

Sean C. Gallagher, P.J., Kathleen Ann Keough, J., and Stephen A. Yarbrough, J.,* concur.

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

KEY WORDS: *Sentence; guilty plea; motion to withdraw; manifest injustice; abuse of discretion; knowing; voluntary; plea; defense counsel; prediction; ineffective assistance; recommendation; range; plea agreement; breach; life sentence; juvenile.*

The trial court did not abuse its discretion by denying defendant's postsentence Crim.R. 32.1 motion to withdraw his guilty pleas where manifest injustice did not result from defense counsel's inaccurate sentence prediction and where the record supports a finding that appellant's guilty pleas were voluntarily and intelligently made. Sentence was affirmed when appellant failed to show that a breach of the plea agreement occurred or that the imposition of a 29-year aggregate term of imprisonment is tantamount to a life sentence imposed on a juvenile offender.

106933	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v GARY L. GARNER			

Affirmed and remanded.

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

KEY WORDS: *R.C. 2971.03(E); consecutive service; void sentence.*

The trial court was required to impose consecutive service of the base sentences imposed on the gross sexual imposition counts under R.C. 2971.03, and the trial court was without authority to impose the sentences concurrently.

106945	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v COREY J. WOODARD			

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107952	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v COREY WOODARD			

Vacated and remanded.

Mary J. Boyle, P.J., Frank D. Celebrezze, Jr., J., and Stephen A. Yarbrough, J.,* concur.

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

KEY WORDS: *Presentence motion to withdraw guilty plea, Crim.R. 32.1, right to counsel, waiver.*

The absence of a thorough colloquy concerning the defendant's waiver of trial counsel and request for appointment of new trial counsel establishes that the defendant did not knowingly, voluntarily, and intelligently waive his right to counsel and that the defendant was denied his constitutional right to counsel. Therefore, his convictions are vacated, and the case is remanded for the trial court to hold (1) a hearing to advise the defendant of the perils of self-representation and determine whether the defendant should be appointed new counsel, and (2) a hearing on the defendant's presentence motion to withdraw his guilty plea.

106966	LAKEWOOD MUNI.	G	CIVIL MUNI. & CITY
ELIZABETH FENNELL v CATHY DEMICHIEI, ET AL.			

Affirmed.

Larry A. Jones, Sr., J., Eileen A. Gallagher, P.J., and Kathleen Ann Keough, J., concur.

KEY WORDS: *Transcript; manifest weight; prorated rent.*

Where an appellant fails to include in the record for appellate review a copy of the transcript of a trial court hearing, there is a presumption of regularity of the proceedings. This court is constrained in reviewing appellant's manifest weight argument because of a lack of a transcript of the trial court's hearings. Appellant's manifest weight argument is therefore rejected.

Because the rental agreement did not provide for prorated rent, appellant's holdover of the premises after the expiration of the term of the lease required appellant to have to pay a full month's rent.

106969	PROBATE COURT DIVISION	F	CIVIL C.P.-JUV, DOM, PROBATE
IN RE: THE ADOPTION OF A.R.M.R.			

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Reversed and remanded.

Eileen T. Gallagher, J., and Frank D. Celebrezze, Jr., J., concur; Eileen A. Gallagher, P.J., dissents with separate opinion.

KEY WORDS: *Adoption; consent; justifiable cause; continuance; discretion; discovery; counsel; evidence; credibility; probate; child support; employment.*

The trial court abused its discretion by denying Mother's request for a continuance.

107466	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v BRIAN TIMOTHY ARNOLD			

Dismissed.

Mary J. Boyle, P.J., Larry A. Jones, Sr., J., and Eileen A. Gallagher, J., concur.

KEY WORDS: *Anders brief, R.C. 2929.20, judicial release, abuse of discretion.*

After independent review pursuant to *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967), this court finds no errors in the trial court that were prejudicial to appellant. Appointed counsel's motion to withdraw is granted.

107506	CLEVELAND MUNI.	C	CRIMINAL MUNI. & CITY
CITY OF CLEVELAND v VANESSA HERNANDEZ			

Reversed and remanded.

Kathleen Ann Keough, J., Sean C. Gallagher, P.J., and Peter M. Handwork, J.,* concur.
*(Sitting by assignment: Judge Peter M. Handwork, Retired, of the Sixth District Court of Appeals.)

KEY WORDS: *Guilty plea; R.C. 2943.031; immigration; non-citizen; consequences.*

Trial court erred in its determination that it was not the trial court's responsibility to determine whether a defendant is a United States citizen. Pursuant to R.C. 2943.031 the court is required to advise all defendants at the time of a guilty or no contest plea that their conviction may have potential immigration consequences.