

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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July 23, 2020

108683	LAKEWOOD MUNI.	G	CIVIL MUNI. & CITY
PATRICIA TRIMBLE v CHARLENE ROSSI			

Affirmed.

Frank D. Celebrezze, Jr., J., Mary J. Boyle, P.J., and Raymond C. Headen, J., concur.

KEY WORDS: *Small claims; security deposit; manifest weight; due process; transcript; Civ.R. 53; plain error; R.C. 5321.16.*

Appellant failed to file a transcript of the magistrate's hearing in support of her objections to the magistrate's decision, as required by Civ.R. 53(D)(3)(b)(iii). The trial court did not abuse its discretion in overruling appellant's objections and adopting the magistrate's decision in favor of appellee.

108724	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v DEMICO T. LEE WILLIAMS			

Affirmed.

Anita Laster Mays, P.J., Frank D. Celebrezze, Jr., J., and Larry A. Jones, Sr., J., concur.

KEY WORDS: *Anders; consecutive sentences; sentences contrary to law; effective assistance of counsel.*

The attorney assigned to the appellant was permitted to withdraw as counsel pursuant to Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967). The appellant filed a pro se brief. The trial court did not err when it sentenced the appellant to consecutive sentences and the sentences were not contrary to law. The appellant did not demonstrate that his trial counsel's performance was deficient.

108822	CLEVELAND MUNI.	C	CRIMINAL MUNI. & CITY
CITY OF CLEVELAND v JASON T. CLIFFORD			

Affirmed and remanded.

Michelle J. Sheehan, J., Anita Laster Mays, P.J., and Larry A. Jones, Sr., J., concur.

KEY WORDS: *Guilty plea; misdemeanor petty offense; Crim.R. 11(E); Crim.R. 11(B); effect of a guilty plea; complete admission of guilt; partial compliance; could be found guilty; prejudice; actual innocence; presumed prejudice; nunc pro tunc; clerical error.*

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(Case 108822 continued)

Where the trial court partially complied with its obligations under Crim.R. 11 to advise the appellant of the effect of his guilty plea in a misdemeanor petty offense by advising the appellant of certain constitutional rights and that he “could” be found guilty, and the appellant failed to demonstrate prejudice, the appellant’s guilty plea was entered knowingly, intelligently, and voluntarily. Where the trial court’s journal entry contained a clerical error, we remand with instructions for the trial court to enter a nunc pro tunc journal entry correcting the error.

108915	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v TYSEAN FULLER			

Affirmed.

Michelle J. Sheehan, J., Sean C. Gallagher, P.J., and Frank D. Celebrezze, Jr., J., concur.

KEY WORDS: *Aggravated robbery; manifest weight.*

The record contains overwhelming evidence for appellant’s conviction of aggravated robbery and related offenses. The jury did not lose its way and create a manifest miscarriage of justice in finding appellant guilty of the offenses charged.

109017	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v P.J.M.			

Affirmed.

Larry A. Jones, Sr., J., Mary J. Boyle, P.J., and Patricia Ann Blackmon, J., concur.

KEY WORDS: *Sufficiency; manifest weight; R.C. 2919.27(A)(1)/violation of a civil protection order.*

In addition to appellant’s knowledge that the civil protection order existed, there was other sufficient evidence and witness testimony to sustain appellant’s conviction. Appellant’s conviction was not against the manifest weight of the evidence.

109053	COMMON PLEAS COURT	A	CRIMINAL C.P.
STATE OF OHIO v EDWARD TAYLOR			

Dismissed.

Mary J. Boyle, P.J., Patricia Ann Blackmon, J., and Larry A. Jones, Sr., J., concur.

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KEY WORDS: *Nunc pro tunc; final appealable order.*

Defendant appealed from a nunc pro tunc entry. A sentencing entry that is corrected by a nunc pro tunc entry to reflect what actually occurred at the sentencing hearing does not extend the time to file an appeal from the original judgment of conviction and does not create a new final appealable order. Defendant's appeal was therefore dismissed because he did not appeal from a final appealable order.

109398	JUVENILE COURT DIVISION	F	CIVIL C.P.-JUV, DOM, PROBATE
IN RE E.C., ET AL.			

Affirmed.

Mary J. Boyle, P.J., Sean C. Gallagher, J., and Eileen A. Gallagher, J., concur.

KEY WORDS: *Permanent custody; R.C. 2151.414; Indian Child Welfare Act.*

The juvenile court did not err in granting permanent custody of the children to the Cuyahoga County Division of Children and Family Services because the children cannot be placed with either parent within a reasonable time or should not be placed with either parent, and permanent custody was in the children's best interest. The juvenile court did not err in finding that the children have no known Native American ancestry that would render them eligible for tribe membership. The agency was not obligated to treat the children as Indian Children under the Indian Child Welfare Act.