

CASE DECISION LIST

Court of Appeals, Eighth Appellate District

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May 4, 2023

111627 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v DENNIS DRANSE, JR.

Affirmed in part and remanded in part.

Anita Laster Mays, A.J., Lisa B. Forbes, J., and Emanuella D. Groves, J., concur.

KEY WORDS: *Motion in limine; consecutive sentencing; R.C. 2929.14(C); Reagan Tokes Law.*

The trial court did not err in granting the state's motion in limine regarding a witness's testimony because such testimony was admissible hearsay. The trial court failed to make the necessary findings in accordance with R.C. 2929.14(C) when imposing consecutive sentences. The appellant's sentence, according to the Reagan Tokes Law, has been ruled constitutional.

111671 CLEVELAND MUNI. C Criminal Muni. & City
CITY OF CLEVELAND v WILLIE C. BOLDEN, III

111961 CLEVELAND MUNI. A Criminal C.P.
CITY OF CLEVELAND v W. B., III

Reversed, vacated, and remanded.

Mary Eileen Kilbane, J., and Eileen A. Gallagher, P.J., concur; Eileen T. Gallagher, J., dissents (with separate opinion).

KEY WORDS: *Certificate of service; service; certified copy; protection order; sufficiency of the evidence.*

Defendant's convictions on two counts of violating a protection order were not supported by sufficient evidence where the city failed to present competent, credible evidence that defendant was duly served with the protection order.

111683 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE ZA. S, ET AL.

Affirmed.

Mary J. Boyle, J., Eileen A. Gallagher, P.J., and Mary Eileen Kilbane, J., concur.

KEY WORDS: *Parental rights, permanent custody, clear and convincing evidence, best interest of the child, R.C. 2151.414(B),*

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(Case 111683 continued)

R.C. 2151.414(D).

Judgment affirmed. The juvenile court did not abuse its discretion in awarding permanent custody to CCDCFS. Clear and convincing evidence within the record supports the juvenile court's statutory findings and determination that permanent custody was in the best interest of the children.

111816 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE A.F.H.

Dismissed.

Lisa B. Forbes, P.J., Eileen T. Gallagher, J., and Michael John Ryan, J., concur.

KEY WORDS: Anders brief; permanent custody; termination of parental rights; best interest of the children.

Counsel's motion to withdraw is granted and the mother's appeal from the juvenile court's termination of her parental rights is dismissed. Following our independent review, we find that the child has not been in agency custody for more than 12 months of a consecutive 22-month period and she cannot be placed with the mother within a reasonable time or should not be placed with the mother. The mother did not remedy the conditions that led to the child's removal. Permanent custody to the agency is in the child's best interest.

111894 DOMESTIC RELATIONS F Civil C.P.-Juv, Dom, Probate
COLLEEN KERKAY v JEFFREY KERKAY

Dismissed.

Michael John Ryan, J., Kathleen Ann Keough, P.J., and Emanuella D. Groves, J., concur.

KEY WORDS: Final appealable order; R.C. 3105.171(C)(1) division of marital property; divorce decree.

The domestic relations court's judgment entry of divorce did not dispose of all the parties' marital property; therefore, there was not a final, appealable order and this court does not have jurisdiction to review the merits of the case.

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111903 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
SMITH AND CONDANI, ET AL. v JOSEPH A. CONDANI, ET AL.

Affirmed and remanded.

Sean C. Gallagher, J., Eileen A. Gallagher, P.J., and Michael John Ryan, J., concur.

KEY WORDS: *Revised Uniform Partnership Act; R.C. Chapter 1776; dissociation; dissolution; partnership; withdrawal; bifurcated proceedings; statutory proceeding; tribunal; right to jury trial.*

Affirmed. *There is no right to a jury trial in determining whether to expel a partner under R.C. 1776.51(E), and because a limited liability partnership does not dissolve following the withdrawal of a partner, the trial court did not err in concluding that the withdrawing partner's dissociation from the partnership was effective at the latest when the partner delivered a written notice to the remaining partner stating his intent to withdraw from the limited liability partnership.*

111971 COMMON PLEAS COURT E Civil C.P.-Not Juv,Dom Or Prob
AMY DESHPANDE, ET AL. v ADELBERT MANNING, ET AL.

Dismissed.

Frank Daniel Celebrezze, III, P.J., Mary Eileen Kilbane, J., and Eileen T. Gallagher, J., concur.

KEY WORDS: *Final, appealable order; R.C. 2505.02; Civ.R. 54(B); jurisdiction.*

Appeal dismissed for want of a final, appealable order. *Because the trial court's judgment entry granting summary judgment did not dispose of all claims, this court lacks jurisdiction to review the appeal.*

111991 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v SEAN M. JONES

Affirmed.

Sean C. Gallagher, J., Michelle J. Sheehan, P.J., and Emanuella D. Groves, J., concur.

KEY WORDS: *Felony; burglary; guilty plea; indefinite sentence; Reagan Tokes Law; S.B. 201; constitutionality; preserve; summarily overruled.*

Judgment of conviction was affirmed. *Appellant's constitutional*

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(Case 111991 continued)

challenge to the Reagan Tokes Law was summarily overruled on the authority of this court's en banc decision in State v. Delvallie, 2022-Ohio-470, 185 N.E.3d 536, ¶ 17-51 (8th Dist.).

112158 COMMON PLEAS COURT A Criminal C.P.
STATE OF OHIO v SAMANTHA MCQUADE

Vacated in part and remanded.

Anita Laster Mays, A.J., Eileen T. Gallagher, J., and Mary J. Boyle, J., concur.

KEY WORDS: R.C. 2929.15; community-control conditions; Jones test; conceded error; abuse of discretion.

The trial court abused its discretion when it imposed community-control conditions prohibiting appellant from consuming drugs or alcohol, patronizing any location where drugs and/or alcohol are sold, served, or used including, but not limited to restaurants, bars, sporting venues, concerts, family weddings, backyard barbecues, private parties, political events, etc., and submitting to random testing. The record reflects that appellant did not have a history of drug or alcohol abuse, the conditions had no relationship to the crime, and the conditions did not serve the statutory ends of probation pursuant to the Jones test.

112210 JUVENILE COURT DIVISION F Civil C.P.-Juv, Dom, Probate
IN RE Z.C.

Affirmed.

Sean C. Gallagher, J., Michelle J. Sheehan, P.J., and Emanuella D. Groves, J., concur.

KEY WORDS: Permanent custody; R.C. 2151.353(A)(4); clear and convincing; manifest weight; R.C. 2151.414(E); findings; R.C. 2151.414(D)(1); best interest; consideration; domestic violence; drugs; visitation; veracity.

Affirmed award of permanent custody to children-services agency pursuant to R.C. 2151.353(A)(4). Although the child, who tested positive for drugs at birth, was only approximately five months old, an award of permanent custody is expressly sanctioned when necessary for the welfare of the child. The juvenile court made the requisite determinations, set forth multiple findings under R.C. 2151.414(E), and considered the relevant best-interest factors under R.C. 2151.414(D)(1). The juvenile court's determinations were supported by clear and convincing evidence in the record, and its decision to grant permanent custody to the agency and terminate parental rights was not against the manifest weight of the evidence.