

Court of Appeals of Ohio

Eleventh Appellate District

Diane V. Grendell
Judge

Timothy P. Cannon
Judge

Colleen Mary O'Toole
Judge

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Thomas R. Wright
Presiding/Administrative Judge

Shibani Sheth-Massacci
Court Administrator/Magistrate/
Administrative Counsel

November 5, 2018

R E L E A S E

ASHTABULA

2017-A-0088

STATE OF OHIO, Plaintiff-Appellee v. DWAYNE BENTLEY, Defendant-Appellant.

Judgment affirmed. Grendell, J., dissents with a Dissenting Opinion. See Opinion and Judgment Entry. [CANNON] (GRENDSELL) (RICE)

CRIMINAL LAW - Crim.R. 33(A); motion for new trial; newly discovered evidence; recanting witness; materially affected outcome of trial; credibility; discretion of the trial court.

GEAUGA

2018-G-0177

MARCIA SPEECE, Plaintiff-Appellee v. BRYAN SPEECE, Defendant-Appellee, JANET L. SPEECE, Defendant-Appellant.

Appeal dismissed. See Judgment Entry. [CANNON] (WRIGHT) (RICE)

LAKE

2017-L-160

STATE OF OHIO, Plaintiff-Appellee v. ROBERT BURRY, Defendant-Appellant.

Judgment affirmed. O'Toole, J., dissents. See Opinion and Judgment Entry. [GRENDSELL] (RICE) (O'TOOLE)

CRIMINAL - Attempted Murder; R.C. 2903.02(A); Felonious Assault; R.C. 2903.11(A)(2); Kidnapping; R.C. 2905.01(A)(3); exclusion of evidence; experiments and scientific tests; Crim.R. 16(H)(2); prosecutorial misconduct; closing argument; sufficiency of the evidence; manifest weight of the evidence; felony sentencing; R.C. 2953.08(G)(2); aggravating and mitigating factors; R.C. 2929.12.

2018-L-099 IN THE MATTER OF: G.B.M., DELINQUENT CHILD
Appeal dismissed. Grendell, J., concurs in judgment only. See Memorandum Opinion and Judgment Entry. [O'TOOLE] (GRENDALL) (CANNON)
APPELLATE REVIEW - delinquency proceeding; App.R. 4(A); thirty-day rule; App.R. 5(A).

PORTAGE

2018-P-0003 ESTATE OF: ELEANOR FAYE BRUNGER, a.k.a. ELEANOR F. BRUNGER, a.k.a. ELEANOR BRUNGER, DECEASED.
Judgment affirmed in part and reversed in part; remanded. Grendell, J., concurs in part and dissents in part, with a Concurring/Dissenting Opinion. See Opinion and Judgment Entry. [CANNON] (GRENDALL) (RICE)
PROBATE - administration of estate; motion for extraordinary attorney fees; fee guidelines; necessary and reasonable; extraordinary services; consent of beneficiaries; summary denial; hearing.

2018-P-0025 BROWNFIELD RESTORATION GROUP, LLC, Plaintiff-Appellee v. HOWARD J. TRICKETT, Defendant/Third Party Plaintiff-Appellant v. JIM SMITH, Third Party Defendant-Appellee.
Judgment affirmed. O'Toole, J., concurs in judgment only. See Opinion and Judgment Entry. [GRENDALL] (WRIGHT) (O'TOOLE)
CIVIL - breach of contract; ambiguous language; intent of parties; extrinsic evidence; fraudulent inducement; witness credibility; "cleanup"; "remediation"; R.C. 122.65; failure to perform; impossibility; hearsay; waiver; reasonable time to perform; reasonable value.

2018-P-0053 KENT STORAGE, LLC, Appellee v. FRANKLIN TOWNSHIP,
2018-P-0054 et al., Appellants.
Upon consideration and upon recommendation of the Administrative Counsel, the motion is granted, and these appeals are hereby settled and dismissed. See Judgment Entry. [WRIGHT] (GRENDALL) (RICE)

TRUMBULL

2017-T-0086 PATRICIA COURTNEY, Plaintiff-Appellant v. OHIO DEPARTMENT OF JOB AND FAMILY SERVICES, Defendant-Appellee.
Judgment affirmed. Wright, P.J., and Grendell, J., concur in judgment only. See Opinion and Judgment Entry. [O'TOOLE] (WRIGHT) (GRENDALL)
ADMINISTRATIVE LAW - administrative appeal; pursuant to R.C. 5103.0326(B) a person's certification as a foster parent may be revoked if that person has not had any foster children during the preceding 12 months.

2017-T-0087 ANN HALL THOMPSON, INDIVIDUALLY AND AS EXECUTRIX OF THE ESTATE OF EDWARD J. THOMPSON, DECEASED, et al., Plaintiffs-Appellants/Cross-Appellees v. NATHAN J. CUSTER, et al., Defendants-Appellees/Cross-Appellants, BP AMERICA PRODUCTION CO., Defendant-Appellee.

Judgment affirmed. See Opinion and Judgment Entry. [CANNON] (WRIGHT) (RICE)

CIVIL - oil and gas lease; surface estate; mineral interest; signing bonus; amended complaint; Civ.R. 15(A); undue delay, undue prejudice, bad faith; summary judgment; conversion; right to lease; right to receive bonus payments; contracting parties; unjust enrichment; benefit conferred by plaintiff upon defendant; quiet title; property interest; procedural due process; constitutional; Dormant Mineral Act; 1989 version of R.C. 5301.56 was not self-executing; 2006 version of R.C. 5301.56 applies to all claims asserted after June 30, 2006; advance notice to mineral rights holder; "deemed abandoned"; vested in surface holder; affidavit of abandonment; notice of claim to preserve.