

COURT OF
APPEALS
TRIAL
DOCKET

COURT OF
APPEALS
NO. 1

UNION
COUNTY

STERLING
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E. F. SEEL & CO.
COLUMBUS, OHIO.

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DATE

Oct. 19-1

Term, 19

DATE

DISPOSITION

Oct. 19-1917 - Cases no. 1 to 26 transcribed from old docket
this date.

Chauncy F. Smith, Clerk
By Ed H. Mullen, Deputy.

Docket	Page	Case No.	STYLE	Kind	DATE	DISPOSITION
J. H. Willis			- 1 - In the matter of the Exceptions to the Second and final account of Joseph W. Westlake, Adm. de bonis non. Estate of Henry A. Westlake, deceased.	Error.		Judgment reversed, vacated and set aside. Remanded to Court of Common Pleas for further consideration & judgment.
Hoopes, Robin & Hoopes.						
J. W. Mooney Jas. McCampbell.			- 2 - Harry D. Shepard vs. Henry C. Shepard, The Ostrander Banking Co.	Appeal.		Settled, costs paid. See entry on journal.
J. H. Willis						
Lawrence & Lawrence,			- 3 - O. F. Kennox & Robt. Elliott partners, name of Kennox & Elliott. vs. M. R. Langstaff	Error.	Apr. 16	Find no Error. Judgment affirmed, without penalty, at costs of Plaintiffs in Error, for which judgment is rendered and Execution awarded. Cause remanded for execution, Exceptions saved. (Signed) W. H. Kinder } Phil M. Crow } Judges M. Donnelly }
Hoopes, Robin & Hoopes						
Mauzer & Maloney. S. W. Van Winkle.			- 4 - J. F. Stallsmith. vs. B. F. Carnean.	Error.	Apr. 17	Find Error. Court erred in sustaining motion to the second defense in the amended answer and cross petition set forth, and in sustaining the demurrer to said cross petition. Judgment reversed. Verdict set aside. New trial awarded at cost of the defendant in Error. Judgment for costs, Execution awarded, and cause remanded for execution and further proceeding according to law.
Lawrence & Lawrence Hoopes, Robin & Hoopes.						
Badger & Ulrey. Est. Morris.			- 5 - Harry Bayer Pltf. in Error. vs. The State of Ohio, Def. in Error.	Error.	Nov. 25	Find Error in overruling motion for a new trial on on the ground that the judgment is contrary to law. Judgment reversed at costs of defendant in error. Plaintiff in Error discharged. Exceptions saved. (Opinion filed.)
J. H. Willis.						
J. H. Willis.			- 6 - Delphos Mfg Co. vs. John Damm. John M. Damm.	Error.	Oct. 2-1915	Find no Error. Judgment affirmed at cost of Plaintiff in Error, for which judgment is rendered, and Execution awarded. Cause remanded for execution. Exceptions saved. (Opinion filed.) Phil M. Crow } W. H. Kinder } Judges
J. H. Langhrey.						

January

Term, 1914.

E. H. SELL & CO., COLUMBUS, O. 14874

Docket	Page	Case No.	STYLE	Kind	DATE	DISPOSITION
Mouser T Maloney T S.W. Van Winkle			= 7 = J. F. Stallsmith vs. B. F. Carneau.	Error	Oct. 19-1915. Date filed.	Find no Error. Judgment affirmed without penalty, at cost of plaintiff in Error. Cause remanded to Court of Common Pleas for execution. Exceptions saved.
Cameron, Cameron Robison Hoopes						Phil M. Crow } judges W.H. Kinder }
Robison Hoopes J. S. Hogan P.E. Dempsey			= 8 = State of Ohio, ex rel. Carl Allgower vs. Chas. F. McBlond D.J. Jenkins, members Union County Liquor Lic. Board.	Mandamus	Apr. 2-1915 - Alternative writ of mandamus allowed returnable at the Court Room of the Court of Appeals in the Court House at Lima, Ohio, on Tuesday April 6-1915 at one o'clock afternoon. Apr. 7-1915 - Discontinued at cost of respondents. Judgment accordingly.	
Robison Hoopes J. S. Hogan P.E. Dempsey			- 9 - State of Ohio ex rel. Peter John Speyer vs. Chas. F. McBlond D.J. Jenkins, members Union County Liquor Lic. Board.	Mandamus	Apr. 2-1915 - Alternative writ of mandamus allowed returnable at the Court Room of the Court of Appeals in the Court House at Lima, Ohio, on Tuesday April 6-1915 at one o'clock afternoon. Apr. 7-1915 - Discontinued at cost of respondents. Judgment accordingly.	
Robison Hoopes J. S. Hogan P.E. Dempsey			= 10 = State of Ohio ex rel. Charles Donohoe vs. Chas. F. McBlond D.J. Jenkins, members Union County Liquor Lic. Board.	Mandamus	Apr. 2-1915 - Alternative writ of mandamus allowed returnable at the Court Room of the Court of Appeals in the Court House at Lima, Ohio, on Tuesday April 6-1915 at one o'clock afternoon. Apr. 7-1915 - Discontinued at cost of respondents. Judgment accordingly.	
Eymont T Thompson			= 11 = Clarence E. Smith vs. State of Ohio.	Error		Find Error in that the affidavit of complaint as shown by the certified transcript, does not charge an offense. Judgments of the Mayor and the Court of Common Pleas reversed at costs of defendant in Error, and plaintiff in Error discharged. Exceptions saved. Oct. 19-1915.
Milton Hamer J.A. White						Phil M. Crow } judges W.H. Kinder }
Robison Hoopes P.E. Dempsey J.S. Hogan			= 12 = In the Matter of the Local Option Election held in the Village of Richwood, Ohio, Union County, on the 12th day of January, 1915.	Error	Jan. 26-1915 - Journal Entry remanding case to Court of Common Pleas for consideration and proceedings according to law.	S.S. Richards, judge.
Joe McCampbell J.A. White A.B. Swinson						

Docket	Page	Case No.	STYLE	Kind	DATE	DISPOSITION
J.H. Willie Robinson & Hoopes Cameron & Cameron			= 13 = In the matter of the Exceptions to the Supplemental account of Josiah W. Westlake, adm. de bonis non Estate of Henry A. Westlake deceased.	Appeal.	July 9-1915- By agreement of parties cause referred to Jas. McCampbell, referee, to hear and determine the issue. (See journal entry for details). Oct. 31-1916- Exceptions overruled. Assuming (without deciding) that an administrator may in any event have reimbursed for attorney fees paid for services in defending against exceptions to items of disbursement, yet the burden of proof of the necessity and value of the attorneys services, which rests on the administrator (55-OS, 206) is not shown to have been sustained by the evidence introduced before the referee. Judgment in accordance with the referees report. Exceptions saved. Unless referees compensation be agreed to by counsel said matter to be submitted to the Court. - Phil M. Crow, W.H. Kinder, A. H. Kuntz, Judges.	
J.H. Willie Cameron & Cameron Simons & Haines Robinson & Hoopes Mills Myers			= 14 = The Commercial Savings Bank, vs. Re Roy Walke, et, al,	Appeal.	July 9-1915- By agreement of parties cause referred to Jas. McCampbell, referee to hear and determine the issue. (See journal entry for details). Oct. 31-1916- Leave granted plaintiff to withdraw exceptions to referees report. Exceptions of Walke, Westlake and Miller overruled. Judgment in accordance with referees report. Unless referees compensation be agreed to by counsel said matter to be submitted to the Court. Exceptions saved. Phil M. Crow, W.H. Kinder, A.H. Kuntz, Judges. Nov. 18-1916- G.C. Edwards, as bailiff. \$250.	
Smick & Stoge. Geo. E. Crane Stirling Dugan D.P. Arline Robinson & Hoopes Simons & Haines			= 15 = J.W. Wadsworth, et, al, vs. Geo. J. Mounger,	Appeal.	Sept. 10-1915- Finding and decree that Cyrus N. Haines took only an estate for life in the 100 acres under the will of James B. Haines. Finding and decree of foreclosure accordingly in favor of Plaintiff. For all details see Journal Entry to be approved by counsel, or in event of disagreement same to be settled by the Court. Motion for new trial overruled, exceptions saved. Cause remanded to Court of Common Pleas for all further proceedings. (Opinion filed). Phil M. Crow, W.H. Kinder, John Talbot, Judges.	
Robinson & Hoopes. Milton Haines			= 16 = Bessie R. Stewart, vs. Board of Education Jerome Township, et, al.	Appeal.	Sept. 11-1915- Finding and decree quieting title of plaintiff to lands in issue, but not including school structures thereon, Costs adjudged against defendant Board of Education. Motion for new trial overruled. Exceptions saved. Remanded to Court of Common Pleas for execution. (Opinion filed). Phil M. Crow W.H. Kinder John Talbot } Judges.	
Simons & Haines Robinson & Hoopes Cameron & Cameron			= 17 = State of Ohio, & rel, P.H. Perry Plaintiff in Error. vs. Chauncey F. Smith as Clerk of the Court of Common Pleas, Union County, Ohio, Defendant in Error.	Error.	Dec. 21-1915- Find no error. Judgment affirmed without penalty and substantial justice certified pursuant to Section 11364 General Code, at cost of plaintiff in error. Remanded for execution. Exceptions saved. Opinion filed. Phil M. Crow. W.H. Kinder J. J. Ausberry } Judges.	
Simons & Haines Robinson & Hoopes Cameron & Cameron			= 18 = P.H. Perry, Plaintiff in Error. vs. O.G. Zeigler, Defendant in Error.	Error.	Dec. 21-1915- The Court having considered and determined on its merits the case of P.H. Perry, Plaintiff in error, vs. O.G. Zeigler defendant in error, No. 18, Union County Court of Appeals, finds no prejudicial error herein. Petition in error dismissed at cost of Plaintiff in error. Exceptions saved. Phil M. Crow. W.H. Kinder J. J. Ausberry } Judges.	

Docket	Page	Case No.	STYLE	Kind	DATE	DISPOSITION
Milton Haines John H. Willis			= 19 = The Board of Education of Magnetic Springs Village School District, Union Co. Ohio Plaintiff in Error vs. The Coshocton Brick Co., Defendant in Error.	Error.	Apr. 5-1916-	By agreement of Counsel leave is granted Plaintiff in Error to file briefs instant.
Cameron Cameron B.W. Nichols					May 5-1916-	Judgment affirmed at cost of plaintiff in Error on ground that the suit in attachment before the justice of the Peace was not res-judicata as to the ownership of the bricks, and consequently did not bar the cause of action of plaintiff below, but had only the effect of transferring to the purchaser at the sale under the order of attachment such interest, if any, as the Coshocton Brick Company then may have had in said brick. Phil M. Crow, W.H. Kuder, J.E. Robinson, Judges.
J.S. Hogan P.E. Dempsey C.A. Hoopes J.A. White Jas McCampbell			= 20 = In the matter of the Contest of the Local Option Election held in the Village of Richwood, Ohio, Union County, on the 12 th day of January 1915.	Error.	Feb. 7-1916-	Judgment of the Common Pleas Court and Probate Court reversed. Cause remanded to the Probate Court for further proceedings in accordance with opinion on file. See journal Entry to be approved by Counsel for contesters & contestee. Chas. F. Chittenden.
J.H. Willis Owen, Ware T. Owen			= 21 = Pat. Smith Plaintiff in Error vs. Western Lumber Co., Defendant in Error.	Error.	June 9-1917-	Find no reversible error, judgment affirmed without penalty, at costs of the plaintiff in Error. Remanded for execution, Exceptions saved. (54 O.S. 608. 57 O.S. 348. Syllabus 2, page 370, 22 O.S. 118, 134) Kent W. Hughes } W.H. Kuder } Judges, Phil M. Crow }
Cameron Cameron J.H. Willis			= 22 = Lettie M. Myers, Plaintiff, vs. Adam C. Myers guardian et al. Defendants.	Appeal.	Nov. 20-1916-	Cause settled by agreement of parties. For details see journal entry approved by Counsel.
S.W. VanWinkle W.P. Maloney J.H. Willis			= 23 = Andrew Jolliff Plaintiff, vs. Geo. Jolliff, et al., Defendants.	Appeal.	Nov. 20-1916-	Leave granted plaintiff to file second amended petition, and to defendants to answer instant. Costs for this date to abide final judgment. Cause assigned for trial on November 27-1916 at 1 P.M.
					Nov. 27-1916-	Settled by agreement of Counsel. See journal Entry approved by Counsel.
J.H. Willis Cameron Cameron			= 24 = Bruce Ish, Plaintiff in Error, vs. Clarence A. Hoopes Defendant in Error.	Error.		Settled by parties and costs paid.

Docket	Page	Case No.	STYLE	Kind	DATE	DISPOSITION
Cameron Cameron. Chas. S. Druggan.			= 25 = James Edwards et al Plaintiffs in Error. vs. Maggie A. Davis et al. Defendants in Error.	Error.	Aug. 1-1917-	Find Error in overruling the motion for new trial, on the ground that the verdict is not sustained by sufficient evidence. Judgment reversed at costs of defendants in error. Verdict set aside. New trial granted. Cause remanded for execution, a new trial and further proceedings according to law. Exceptions saved. Kent W. Hughes, } W.H. Kinder, } Judges. Phil M. Crow.
Cameron Cameron. Milton Harries Lewis Johnson Jst. Willes			= 26 = R.H. Elliott and Marie Elliott Plaintiffs vs. The Board of County Commissioners of Union County, Ohio. Defendants.	Appeal.	June 21-1917- Trial. July 26-1917-	Findings and decree for plaintiffs at defendants costs, on the authority of Commissioners of Green County vs. Harbison, 74 O.S. 318, and Dodge et al, Commissioners vs. Dunlap 80, O.S. 719. Motion for new trial overruled. Exceptions saved. Kent W. Hughes, } W.H. Kinder, } Judges. Phil M. Crow.
Swain, Haine H. H. Hain			= 27 = French Porter Plaintiff in Error vs. Peter Gase Defendant in Error.	Error.	1917. Nov. 17	Find no reversible error. Judgment affirmed, without penalty, at costs of plaintiff in error. Remanded for execution. Exceptions saved. Opinion filed. Kent W. Hughes, } W.H. Kinder, } Judges. Phil M. Crow.
C.S. Druggan.			= 28 = Eva Ann Brant, Plaintiff in Error. vs. Lewis H. Outlier Defendant in Error.	Error.	1918. Jan. 23-	Assignment for Jan. 25-1918 vacated by agreement of Counsel. Feb. 18 - Find error in sustaining demurrer, judgment reversed at costs of defendant in error. Cause remanded for execution, with direction to overrule the demurrer, and for all further proceedings according to law. Exceptions saved. Opinion filed. Kent W. Hughes, } W.H. Kinder, } Judges. Phil M. Crow.
Booth, Keating, Cameron & Boulogne.			= 29 = Charles C. Daniel Plaintiff in Error vs. The United Commercial Bankers of America and United States Fidelity and Guaranty Co. Defendants in Error.	Error.	1919. Feb. 5-	Judgment affirmed at costs of plaintiff in error, pursuant to Section 11364 General Code. Cause remanded for execution. Exceptions saved. Kent W. Hughes, } W.H. Kinder, } Judges. Phil M. Crow.
Voss, Sater, Seymour, & Reese.			= 30 = The Order of United Commercial Bankers of America. Plaintiff in Error vs. Charles C. Daniel and United States Fidelity and Guaranty Co. Defendants in Error.	Error.	1919. Feb. 5-	Find no error. Judgment affirmed at costs of plaintiff in error, on the ground that the insured sustained no loss by reason of the acts of Daniel within the period covered by the contract of insurance in controversy. Cause remanded for execution. Exceptions saved. Kinder, J. & Associates, } Kent W. Hughes, } Judges. W.H. Kinder. Phil M. Crow.

Docket	Page	Case No.	STYLE	Kind
Cum gratia			= 31 = Blanch McFarland and Fra Tomlin by Lee Straus, Guard, ad. litem & legal guardian vs. Plaintiffs in Error. James E. Clark, Chas. Clark, et al. Defendants in Error.	Error.
			= 32 = Corydon E. McAllister, as Administrator of Estate of Wm. G. McAllister, deceased vs. The Board of County Commissioners of Union County, Ohio.	Error.
			= 33 = O. P. Cummings, vs. James B. Fogle	Error.
			= 34 = Ray Beaver vs. Harrison Shaw	
Nate L. Moffitt:			= 35 = Sadie Tilton et al. vs. Fred H. Warner Adm. of the Estate of M. F. Tilton, decd.	

DATE	DISPOSITION
1918. Jan. 11	Assignment for January 25-1918, vacated by agreement of Counsel. Kent W. Hughes. } W. H. Kinder. } Judges. Phil M. Crow.
Mich. 14	Find error in directing verdict. Judgment reversed at costs of defendant in error. Verdict set aside, a new trial awarded, and cause remanded for execution, a new trial, and further proceedings according to law. Exceptions saved. Opinion filed. Certificate filed with clerk of Court of Appeals of Union County, Ohio, who is ordered to faithfully execute the same. Kent W. Hughes } W. H. Kinder. } Judges. Phil M. Crow.
1919. March 1	Find no error. Judgment affirmed at costs of plaintiff in error. Cause remanded for execution. Exceptions saved. Opinion filed. W. H. Kinder. } Phil M. Crow. } Judges. Kent W. Hughes.
1919. Jan. 9	Find error in sustaining demurrer to the amended petition and in entering judgment against plaintiff in error. Judgment reversed at costs of defendant in error. Execution awarded and cause remanded to the Court of Common Pleas for execution and further proceedings according to law. Opinion filed. Kent W. Hughes. } W. H. Kinder. } Judges. Phil M. Crow.
1919. Mich. 3	Assignment for March 7-1919 vacated. Time extended for briefs of plaintiff in error to March 15-1919. Briefs of defendant in error to be filed by March 22-1919. Reply briefs of plaintiff in error to be filed by March 29-1919. Phil M. Crow. } W. H. Kinder. } Judge Kent W. Hughes.
April 18	Find no error to the prejudice of plaintiff in error. Judgment affirmed without penalty at costs of plaintiff in error. Remanded for execution. Exceptions saved. Opinion filed. W. H. Kinder. } Phil M. Crow. } Judges. Kent W. Hughes.

Docket	Page	Case No.	STYLE	Kind	DATE	DISPOSITION
Nate L. Moffitt			= 35 = Sadie Tilton et, al. -vs- Fred W. Warner Adm. of the Estate of W. F. Tilton deceased.		1919	Settled by Parties out of Court.
Nate L. Moffitt J. M. Brodrick John L. Laughery			= 38 = L. G. Rockhold. -vs- C. S. Grindle and Willie Hines	Decided Jan. 16-1920		There is, however, some doubt as to whether or not the trial court ^{credited} the defendant with payments made by him to the land owners for stone crushed by him under the contract which called for a payment of twelve cents per yard to be made by plaintiff. But in as much as the court has found that the parties are entitled to an accounting for other stone sold from the quarry except that for the jobs K and M - Improvements, the judgment of the court is not disturbed, but the case is remanded that the accounting may be had and in the event such credits have not been given the defendant will there and then be entitled to prove and take credit for such payments made by him. Judges Kinder, Crow Hughes
Druggan			= 42 = The Aetna Casualty & Security Casualty Company -vs- Mollie Baughman,	Decided Sustained		Find no error. Judgment affirmed at costs of plaintiff in error. Cause remanded for execution. Exceptions saved. Opinion filed
Moffitt Hoopes			= 39 = E. B. Evans -vs- Robert Krauskopf	Decided May 14/1920		Find no prejudicial error, judgment affirmed, with out penalty, at costs of plaintiff in error. Cause remanded for execution. Exceptions saved. Opinion filed W. H. Kinder Phil M. Crow Kent W. Hughes.
J. H. Willis			= 40 = Robert Pindum -vs- Pat. L. Smith	Decided June 4-20		Binding and judgment for Plaintiff. Costs adjudged as follows: Each party to pay costs by him severally made, and one-half of all other costs. Motions for New Trial overruled. Exceptions saved to parties severally. Remanded for Execution. Exceptions saved. Per curiam filed W. H. Kinder Phil M. Crow Kent W. Hughes.
M. L. Myers			= 44 = George Renner -vs- John Oppheil Bessie Oppheil.	Appeal	May 6 1920 July 18-1920 June 21	By agreement of counsel, cause continued until the next term of the court. By agreement of counsel, assignment for June 6, 1921, vacated; cause when submitted, to be tried on transcript of evidence including exhibits introduced in the court below, supplemented by such additional evidence if any, as parties may respectfully desire to introduce, such additional evidence to be taken before a Notary Public in Grayville, Ohio, and filed not later than June 8th, 1921; and cause to be thereafter assigned for submission at Kansas City, of which assignment counsel are to have ample notice from the court. W. H. Kinder Phil M. Crow Kent W. Hughes Ernest W. Warden.

Continued on
page 9 - this
volume.

Docket	Page	Case No.	STYLE	Kind
Smick & Hogen & John H. Willis			= 41 = Isaac Bolenbaugh Adm. - vs -	
B. A. Hoopes			John Agan, et al.	
Nate L. Moffitt			= 43 = L. G. Rockhold - vs - G. S. Grindle Willie Hints Union County by Milo L Myers Prosecuting attorney	
Nate L. Moffitt			= 45 = Cornelius S. Hamilton - vs - Flora C. Newman.	
John H. Willis			= 46 = J. L. Davis - vs - G. B. Chapman	
B. A. Hoopes			= 47 = Minnetta Shumway - vs - J. D. Love.	
Doyle, Lewis & J. L. Cameron			= 48 = The Toledo & Ohio Central Rail- way Company, - vs - Daniel A. Snyder	
John H. Willis Vol 1 275 48				

DATE	DISPOSITION
Aug 13 20	Find error in overruling motion for new trial on the ground that the verdict is not sustained by sufficient evidence, there being no evidence tending to prove the value of the stolen wool to have been thirty five dollars or more, or that deceased committed a burglary. Judgment reversed at costs of defendants in error, and cause remanded for execution a new trial and further proceedings according to law. Exceptions saved. Hughes J. Dissents Opinion filed.
July 15-21	Find no error. Judgment affirmed without penalty at costs of plaintiff in error. Remand for execution. Exceptions saved. The question of facts arising upon the evidence cannot be determined by this court because no bill of Exceptions was tendered to and signed by the Referee. 17. c. c. 256 - Section 11484. General Code. Phil M. Crow. Kent M. Hughes. Ernest N. Warden.
July 23-21	Find no error. Judgment affirmed without penalty, at costs of plaintiff in error. Remanded for execution. Exceptions saved. Phil. M. Crow; Kent M. Hughes Ernest N. Warden.
Jan 28 1921	By agreement of counsel, cause submitted at Lima, on Transcript of the evidence in the court below on briefs, with oral argument. W. H. Kinder Phil M. Crow. Kent M. Hughes.
June 13 - 1921	By agreement of counsel assignment for this date vacated. Phil M. Crow.
Dec. 3 1921	Find the judgment contrary to law in that it is not sustained by any evidence. The admissions of defendant below, in connection with Plaintiff's Exhibit 5 and the provisions of Section 85-84 (12) United States Compiled Statutes, make a prima facie case which nothing in the record tends to rebut or overcome. Judgment reversed at costs of defendant in error, and cause remanded for execution and further proceedings according to law. Exceptions saved. Phil M. Crow. Kent M. Hughes Ernest N. Warden. Judges.

Docket	Page	Case No.	STYLE	Kind
Vol. 1	276	49	D. H. Mast, Sole Owner and Proprietor of Ohio Lightning Rod Company. vs. Chyde Thompson	Replevin
John H. Willis				
Milo L. Myers				
Vol. 1	278	50	Rolland Austin vs. John A. Shipley	Error
Jacob H. Schan				
L. A. Hoopes				
			Case No 50 continued	
Vol. 1	279	51	Harry E. Dwyer vs. The State of Ohio	Error
L. B. Glouse				
Milo L. Myers				
No. 44			Continued from Page 7 Geo Ranner Plaintiff in Error vs. John Opphile et al Defendants in Error	Appeal
No. 44			Continued.	
			4-28-1922 Finding that the way in controversy, within the boundaries of the highway as originally established, was a public road which was not vacated nor abandoned, and that defendants have no easement over plaintiffs lands. Perpetual injunction awarded as follows. Against plaintiffs against any obstructions within said boundaries; and against defendants, attempting to exercise any easement on plaintiffs premises at any point, north of the north line of said public road. Costs adjudged, as follows:	

DATE	DISPOSITION
July 15 1921	Find error in overruling the motion for new trial on the ground that the verdict is against the weight of the evidence. Judgment reversed at costs of defendant in error, and cause remanded for execution, a new trial and further proceedings according to law. Exceptions saved. The former judgment of reversal was for the reason that the judgment was not sustained by any evidence. For the distinction between a verdict not sustained by any evidence and one against the weight of evidence, see 95 O.S. 391, 392 et seq. Judges, Phil M. Crow, Kent W. Hughes, Ernest N. Warden
June 13, 1921	By agreement of counsel, time for filing briefs of plaintiff in error, extended to June 23, 1921. Answer briefs of Defendant in error to be filed by June 30, 1921. Reply briefs of Plaintiff in error to be filed by July 5, 1921. Oral argument waived. Phil M. Crow, Kent W. Hughes, Ernest N. Warden
July 30 1921	Find no error in any particular specified in the briefs of plaintiff in error. Section 12248, General Code. Judgment affirmed without penalty at costs of plaintiff in error. Remanded for execution. Exceptions saved. 1. The question of the weight of the evidence is governed by the case of Dean vs. King, 22 O.S. 118, 134 and kindred cases. 2. The question relative to newly discovered evidence has not been brought on the record by bill of exceptions. Phil M. Crow, Kent W. Hughes, Ernest N. Warden, Judges.
Feb. 1 1922	Find no error, exceptions in the sentence, all other questions, presented by the record, being now settled in other cases by the Supreme Court of Ohio, adversely to plaintiff in error. Judgment reversed as to sentence, and cause remanded for resentencing. 78 O.S. 76 followed. Sections 13717 and 12383 General Code. Judgment otherwise affirmed. Costs on error adjudged against defendant in error. Exceptions saved. Judgment entry shows fine of \$100.00 while the bill of exceptions states it as \$1000.00. Phil M. Crow, Kent W. Hughes, Ernest N. Warden. Judgment.
Nov. 9-1921	By agreement of counsel assignment for November 11-1921 vacated and time fixed for filing briefs as follows: Those of Plaintiff by Dec. 1-1921; answer briefs of defendants by January 21-1922; and reply briefs of Plaintiff by February 1-1922. Phil M. Crow, Kent W. Hughes, Ernest N. Warden. Judges.
	One half against plaintiff, and one half against defendants. Motions of parties for new trial overruled. Exceptions saved to parties severally. Phil M. Crow, Kent W. Hughes, Ernest N. Warden. Judges.

Docket	Page	Case No.	STYLE	Kind	DATE	DISPOSITION
Vol 1. Pigman Myers Ingder & Magee	280	52	<i>Appeal</i> Ed S Grandstaff Plaintiff vs. Christopher Magee Jr.		Mar 26	Settled and Dismissed. See Journal entry agreed upon by counsel Kent W. Hughes. Ernest H. Warden Phil M. Crow. Judges.
b. a. Hoopes - Elwood Murphy						
Vol. 1. Myers	281	53	The Board of Education of Leesburg Township Plaintiff vs. Richard Patton Defendant.	Error.	Feb. 1 1923	Find no prejudicial error. Judgment affirmed, without penalty, at costs of Plaintiff in error. Cause remanded for execution. Exceptions saved. Phil M. Crow. Kent W. Hughes. Ernest H. Warden Judges.
Porter Hoopes						
Vol. 1. 282 Leihart & Myers	54		Charles F. Morton Frank A. Dye. Plaintiff vs. J. D. & Estella Westfall Defendants.	Error.	Feb 23	Find no prejudicial error. Judgment affirmed at costs of plaintiff in error. Cause remanded for execution. Exceptions saved. The evidence is in conflict and hence it cannot be said that the verdict is manifestly against the evidence 22- O. S. 118, 134 and kindred cases. We find no error in the charge, though this question was not submitted to the trial court in the motion for new trial and hence is not reviewable here. Crow, J., dissents on the ground that the verdict is against the weight of the evidence. Phil M. Crow. Kent W. Hughes. Ernest H. Warden Judges.
W. A. Hoopes						

January

Term, 1923.

Docket	Page	Case No.	STYLE	Kind
Vol. 1. Southard & Kodwin H. A. Hoopes.	283	55	The H. B. Hager Realty Co. By H. B. Hager, Plaintiff vs. C. D. Harer	Error
Vol. 1	284	56	Frances Goff Plaintiff vs. The State of Ohio Defendant	Error.
Vol. 1.	285	57	Samuel Goff Plaintiff vs. The State of Ohio Defendant	Error.

September

Term, 1922.

DATE	DISPOSITION
Dec 14 1922	Find reversible error in direction of verdict in favor of defendant in error. Judgment reversed at costs of Defendant in error. Cause remanded for new trial and further proceedings according to law. Exceptions saved. The Bill of exceptions shows that some evidence was offered tending to prove all the material allegations of the petition; and this being so, the circuit rule applies and the petition issues should have been submitted to the jury under proper instructions of the Court. 80 O. S. 34. Phil M. Crow - Kent W. Hughes & Ernest N. Warden.
Feb. 1 1923.	Find error in the sustaining of the objections of the state to questions put to the witness Beltz on cross examination. Judgment reversed at costs of defendant in error. New trial awarded. Cause of remanded for a new trial and further proceedings according to law. Exceptions saved. Phil M. Crow, Kent W. Hughes Ernest N. Warden Judges.
Feb. 1 1923.	Find error in the sustaining of the objections of the state to questions put to the witness Beltz on cross examination. Judgment reversed at costs of defendant in error. New trial awarded. Cause remanded for a new trial and further proceedings according to law. Exceptions saved. Phil M. Crow, Kent W. Hughes, Ernest N. Warden. Judges.

Docket	Page	Case No.	STYLE	Kind
Vol. 1	287	58	In the Matter of the improvement known as The Treacles Creek Ditch Improvement, appeals of E. M. Fullington and F. G. Fullington Trustees. Heirs of Elizabeth Fullington and John L. Boylan.	appeal. Error
Vol. 1		59	In the matter of the improvement known as the Treacles Creek County Ditch improvement. Board of County Commissioners Union County, Ohio. vs. Elizabeth Fullington	Error
Vol. 1		60	In the matter of the improvement known as the Treacles Creek County Ditch improvement. Board of County Commissioners Union County, Ohio.	Error.

January

Term, 1923

DATE	DISPOSITION
Feb. 1	1923. Find no prejudicial error. Judgment affirmed, without penalty, at costs of plaintiff in error. Cause remanded for execution. Exceptions saved. The weight of evidence being the only question for determination here, it cannot be said that the finding and judgment of the court below is manifestly wrong. Phil M. Crow. Kent W. Hughes. Ernest H. Warden, Judges.
Feb. 1	1923 - Find no prejudicial error. Judgment affirmed, without penalty at costs of plaintiff in error. Cause remanded for execution. Exceptions saved. The weight of the evidence being the only question for determination here, it cannot be said that the finding and judgment of the court below is manifestly wrong. Phil M. Crow. Kent W. Hughes. Ernest H. Warden, Judges.
Feb. 1	1923. Find no error. Judgment affirmed, without penalty, at costs of plaintiff in error. Cause remanded for execution. Exceptions saved. The weight of the evidence being the only question for determination here, it cannot be said that the finding and judgment of the Court below is manifestly wrong. Phil M. Crow. Kent W. Hughes. Ernest H. Warden, Judges.

Docket	Page	Case No.	STYLE	Kind
290	61		Harper DeGord & Kenneth DeGord Plaintiff vs. Arthur Bartholomew	Appeal
291	62		Sanders Motor Company vs. Frederick Gollin, as Sheriff Union Co. O.	Appeal
292	63		John G. Liff Plaintiff vs. Martha J. Wilson Defendant	Error

January Term, 1923

DATE	DISPOSITION
Mar 30 23	Demurrer to petition overruled. Exceptions saved. Find for plaintiffs that at the time suit was brought, they were entitled to the injunction prayed for. We find that plaintiffs have suffered incidental damages in the sum of \$125.00, which are assessed against the defendant. Motion for new trial overruled. Exceptions saved. Remanded for execution. Kent W. Hughes. Ernest H. Warden Phil M. Crow. Judges.
March 30 1923	Cause dismissed for want of Prosecution, at costs of Plaintiff, Exceptions saved. Kent W. Hughes, Ernest H. Warden, Phil M. Crow. Judges.
May 24 1923	Find no prejudicial error: Judgment affirmed, without penalty, at costs of plaintiffs in error. Cause remanded for execution. Exceptions saved. While the plaintiff assumed the opening of this case, the burden was upon the defendant to prove the affirmative defense pleaded, Breach of warranty. A careful reading of all the evidence discloses a fair conflict in the evidence and hence the finding of the Court, a jury being waived, is conclusive here. Dean v. Kuy, 22. O. S. 118, 134 and Kinderdeases. Kent W. Hughes, Ernest H. Warden Phil M. Crow. Judges.

Docket	Page	Case No.	STYLE	Kind
	293	64	John A. Auer -vs- L. G. Croft Plaintiff Defendant	Error.
	294	65	Jessie O. Schneider -vs- William M. Kinzie et al. Plaintiff Defendant	Appeal
	55		The H. B. Hager Realty Company -vs- M. T. Haver Plaintiff Defendant	Error.
	66			

January

Term, 1923.

DATE	DISPOSITION
March 30	Finding and judgment in accordance with the opinion filed herewith, at costs of the Marysville Foundry & Machine Company. Motion for new trial overruled. Exceptions saved. Opinion filed. Kent W. Hughes, Ernest N. Warden Phil M. Crow. Judges.
March 23	Finding and judgment, and costs, in accordance with the opinion filed herewith. Motions for new trial overruled. Exceptions saved. Opinion filed. Kent W. Hughes, Ernest N. Warden Phil M. Crow. Judges.
Jan 11	1924. Find error in the charge of the Court. Judgment revised at costs of defendant in error. New Trial awarded and cause remanded. Exceptions saved. The jury was erroneously charged that in the event a verdict was found for plaintiff, it should be in the amount of three hundred dollars. The fixing of the amount of the verdict was for the jury, and this charge was prejudicial error. Kent W. Hughes, Ernest N. Warden Phil M. Crow. Judges.

Docket	Page	Case No.	STYLE	Kind
Vol. 1	68		Richwood Light Heat & Power Co. Plaintiff. -vs- Village of Richwood Defendant.	Error.
Vol. 1	69		State of Ohio. -vs- Khas. Amarr Plaintiff. Defendant.	Error.

DATE	DISPOSITION
Nov. 3, 1923	Find no error. Judgment affirmed at costs of Plaintiff in error. Remanded for Execution. Exceptions saved. Opinion filed. Kent W. Hughes. Ernest W. Warden. Phil W. Crow.
Nov. 3, 1923	Find no prejudicial error. Judgment affirmed, at costs of Plaintiff. in error, on the reasoning of the opinion of the Court below of Common Pleas. Remanded for execution. Exceptions saved. Kent W. Hughes. Ernest W. Warden. Phil W. Crow.

Docket	Page	Case No.	STYLE	Kind
1	300	70	Thomas Price, Mary Alice Price, Maggie Burghess, Margaret Wildine, Florence Griffith East, and Mabel Griffith, Plaintiffs The Trustees of the Baptist Church of Richwood, Ohio Defendant.	Error
1	301	71		
1	303	73	E. H. Adams Plf. The Board of Education Harley Township Grain School district, Union County, Ohio	Appeal.
1	302	72	Board of Education of Washington Township vs Vic Rogers.	Error.

January

Term, 1924

DATE	DISPOSITION
Feb 25 24	Petition in error dismissed at costs of plaintiff in error, because of pendency of the appeal (Case Number 70, in this Court) of the action of which the judgment herein complained of was entered. 70-O. S. 232. Exceptions saved. Kent W. Hughes. Ernest N. Warden Phil M. Crow - Judges.
Mar 29	Finding Judgment and decree that the legacy given to plaintiff by the codicil of the will of Elizabeth Kyle, deceased, is satisfied pro tanto by the payment made by testatrix in her lifetime and by her executor subsequent to her death, and executor is directed to pay to plaintiff the sum of \$430.00 with interest thereon from one year after the date of the death of testatrix being the balance of the legacy unpaid, less the inheritance tax payable to the State on one thousand dollars. Costs adjudged against plaintiff. Motion for new trial overruled. Exceptions saved. Opinion filed. Kent W. Hughes. Ernest N. Warden Phil M. Crow - Judges.
Apr 23	Finding and Judgment for defendant at Costs of Plaintiff. Petition dismissed. Motion for New trial overruled. Exceptions saved. Opinion filed. Kent W. Hughes. Ernest N. Warden. Phil M. Crow. Judges.
June 24	-1924- Find no prejudicial error. Judgment affirmed, without penalty, at costs of plaintiff in error. Cause remanded for execution. Exceptions saved. See General Code, Section 4752, which is a mandatory provision. 52-O-S-138. Finding no prejudicial error, we deem it unnecessary to consider the question raised on the failure to file a motion for new trial within three days after the rendition of the verdict. Kent W. Hughes. Ernest N. Warden. Phil M. Crow. Judges.

Docket	Page	Case No.	STYLE	Kind
1		67	Charles Gordon Plaintiff in Error. D. M. Evans. Defendant in error.	Error.
1		74	F. A. Mock vs The State of Ohio	Error.
#	74			
75			Harvey Brown vs The Board of Education of Darby Township, Union county, Ohio et al.	appeal

January Term, 1924.

DATE	DISPOSITION
Mar 24	Motion to strike from the files bill of exceptions as to trial on the merits sustained because not perfected within period prescribed by statute. Exceptions saved. Motion to dismiss proceeding in error, overruled. Exceptions saved. Judgment affirmed without penalty, at costs of plaintiff in error. Exceptions saved. On the motion to set aside the judgment on the verdict and overruling motion for new trial, the bill of exceptions filed January 11-1924, contains such recitals and evidence as fully warrant overruling the motion. Disregarding the bill of exceptions as to the trial on the merits the only question raisable, if presented by the record, is the sufficiency of plaintiff's petition. Although that pleading is somewhat vague, it is good as against the demurrer which was overruled. Kent W. Hughes, Ernest N. Warden, Phil M. Crow, Judges.
May 14 1924	Find no prejudicial error. Judgment affirmed at costs of defendant F. A. Mock. Exceptions saved. The record discloses no judgment or final order in regard to the truck and hence this court is unable to render any decision relative thereto. Inasmuch as the question is to be disposed of below, we informed counsel that this Court in the application of Sections 6212-43 of the General Code, informally entertained the opinion that the State could confiscate only the actual interest of the indicted defendant. Kent W. Hughes, Ernest N. Warden, Phil M. Crow, Judges.
May 28 1924	Find error in that the judgment is contrary to law, so far as the same pertains to the priority of the lien of plaintiff in error. Judgment modified so that said lien be established as prior in right of satisfaction, to the fine and costs due defendant in error. As thus modified, judgment affirmed at costs of defendant in error. Remanded for all further proceedings according to law. Exceptions saved. Kent W. Hughes, Ernest N. Warden, Phil M. Crow, Judges.
Feb. 10 1925	Findings and judgment for defendants, and amended petition dismissed, at costs of Plaintiff. Motion for new trial overruled. Exceptions saved. Ernest N. Warden, Phil M. Crow, Kent W. Hughes, Judges.

January Term, 1925

DATE	DISPOSITION
Mar 24 1925-	Find no prejudicial error. Judgment affirmed at costs of plaintiff in error. Cause remanded for execution. Exceptions saved. The question presented for consideration, is that the verdict is against the weight of the evidence. The Transcript of docket and journal entries shows that no bill of exceptions was filed in the Common Pleas Court. What purports to be a bill of exceptions, is not signed by the trial judge, nor are we able to find any file marks showing that it was filed in the Common Pleas Court. Hence we are not permitted to examine into the question of the weight of the evidence. Ernest M. Warden Phil M. Crow Kent W. Hughes Judges.
Apr. 24. 1925.	Attorney for defendant in error is given until May 2 nd 1925, to show cause, by brief mailed to this Court, why the former Judgment should not be set aside and the case reconsidered, by reason of the corrected bill of exceptions filed in the Court. Exceptions saved. Ernest M. Warden Phil M. Crow Kent W. Hughes Judges.
May 1 1925.	Minutes of March 24, 1925 - expunged. Re-hearing granted. Exceptions saved. Ernest M. Warden Phil M. Crow Kent W. Hughes Judges.
May 28 - 1925 -	Find no error. Judgment affirmed at costs of Plaintiff in error. Remanded for execution. Exceptions saved. Ernest M. Warden Phil M. Crow Kent W. Hughes Judges.

Docket	Page	Case No.	STYLE	Kind
One (1)	309	77	C. E. Bonham Plaintiff Harley Rizer Levan Rizer Defendants	Error
One (1)	310	78	In the Matter of the Improvement known as the Scheiderer Ditch No. 1131, petitioned for by J. B. Burris & H. J. Scheiderer (see page 20)	Error
One (1)	311	79	W. R. Robinson Plaintiff vs Llewellyn M. Jones et al	Appeal

May

Term, 1925.

DATE	DISPOSITION
June 13 1925.	Find prejudicial error in the charge of the court, appearing on page 120 of the record, wherein the court charged in effect that the burden of proof was upon the defendants relative the customary price per hour to be paid for the class of labor sued upon. See Bates' Pleading & Practice Volume 2, page 1283. Judgment reversed at costs of defendants in error. Remanded for new trial. Exceptions saved. The question of Misjoinder of parties was not raised by demurrer to the petition, and defendant no doubt intended to waive that question in proceeding to trial in seeking to procure judgment in favor of the two plaintiffs separately for a lesser amount than was claimed by them. Ernest N. Warden Phil M. Crow Kent W. Hughes, Judges.
	(See page 20)
1926 July 13 th	Findings done and judgment in enclosure, pursuant to the court's opinion. All costs to be paid out of the proceeds. Remanded to the Court of Common Pleas for sale and all further proceeding according to law. Motion for new trial overruled. Exceptions saved. Opinion filed. Ernest N. Warden Phil M. Crow Kent W. Hughes Judges

20

Docket	Page	Case No.	STYLE	Kind
One	312	77 80	Pullington Brothers a Partnership Plaintiffs in Error -vs- N. A. Mitchell Defendant in Error.	Error
One	314	82	The Union Banking Company Plaintiff in Error vs Ben N Potts et al	Error
One	314	82		

May

Term, 1925-

DATE	DISPOSITION
Dec 2 nd 1925-	Find error in overruling motion for new trial, on the ground that the verdict is against the weight of the evidence. Judgment reversed at cost of defendant in error. Verdict set aside, new trial awarded and cause remanded for all further proceedings according to law. Exceptions saved. Opinion filed Ernest M. Warden Phil M. Crow Kent W. Hughes Judges
May 20 th 1926	Assignment for May 20 th 1926, Vacated by agreement of counsel Ernest M. Warden Phil M. Crow Kent W. Hughes
March 11 th 1926	Find no Error. Judgment of cost of plaintiff in Error. Remand for Execution. Exceptions saved. It is the opinion of plaintiff in error as dictated by its counsel, in the trial of the case (bill of exception page 41), that the sale had been consummated, at least to the point of passing to the purchaser, the title of the property, and that plaintiff in error was seeking only the recovery of the proceeds of the sale. Neither Ben N Potts nor Francis Ethel Potts had, after such passing of title, any interest in either the property or the proceeds, and no other person is a party to this proceeding in error. Phil M. Crow Kent W. Hughes Charles L. Justice Judges

Term, 1926

Docket	Page	Case No.	STYLE	Kind
1	317	84	Louise M. Mittendorf Supt. -vs- Ex Parte. Mary Zach.	
1	318	85	Wm Hanger Plaintiff in Error -vs- Mable Forrester et al. Defendants in Error.	
1	319	86	Forest Robin alias Chas. C. H. M. Farland Plaintiff in error -vs- The State of Ohio. Def. in error.	

DATE	DISPOSITION
	Dismissed by Defendant and costs paid in full. Oct. 30-1926.
Nov 4 th 1927.	Find Error in that the judgment is contrary to law. Judgment reversed at costs on error of defendant in error Richard C. Thrall as Guardian. Cause remanded. Exceptions saved. Journal entry approved by the Court and filed with the clerk. 8 C.C. (N.S.) 498. - 19 C.J. 413 Phil M. Crow Kent W. Hughes Charles L. Justice Judges
1927 March 3	Find no prejudicial error. Judgment affirmed at cost of plaintiff in error. Remanded for execution. Phil M. Crow Kent W. Hughes Charles L. Justice Judges

Docket	Page	Case No.	STYLE	Kind
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1	320	87	J. H. Ballard Plaintiff in Error. vs. The Dasher Supply Co. Defendant in Error	
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1	321	88	Ernest Wellwood Plaintiff in Error vs. The State of Ohio Defendant in Error	
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1	322	89	Ruth Parker Plaintiff in Error vs. Irwin G. Patch Defendant in Error	
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DATE	DISPOSITION
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March 25- 1927	Find no error in any particular pointed out in the briefs of plaintiff in Error. Judgment affirmed without penalty at costs of plaintiff in Error. Remanded for execution. Exceptions saved. 1 st Such error if any, as occurred in sustaining objections to questions by counsel for defendant, are of no consequence by reason of either no tender of proof, or that the tender was of inadmissible evidence. 2 nd The verdict cannot be held against the weight of the evidence, in view of the doctrine firmly settled by the case of Dean vs. Shug, 22 O. S. 118, 134, and hundred cases. Phil M. Crow Kent W. Hughes Charles L. Justice Judges
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March 31- 1927	Find error in overruling motion for new trial on the ground the verdict is not sustained by sufficient evidence. Judgment reversed at costs of defendant in Error. Verdict set aside, new trial awarded, and cause remanded for new trial and further proceedings according to law. Exceptions saved. Phil M. Crow Kent W. Hughes Charles L. Justice Judges
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April 1 st	Find no prejudicial error. Judgment without penalty at cost of plaintiff in Error. Cause remanded for execution. Exceptions saved. 1 st The record does not show that proceedings before the probate court were taken touching the disappearance of the child. 2 nd The judgment is amply supported by the evidence adduced at the trial. Phil M. Crow Kent W. Hughes Charles L. Justice Judges
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Docket	Page	Case No.	STYLE	Kind
1.	323	90	John Low Guardian Plaintiff in Error vs Irwin G. Patch Defendant in Error	
1.	324	91	Elizabeth M. Miller & David M. Postalsky as Executors of the last will and Testament of Jay H. Miller deceased Plaintiff vs Geo. W. Hunt, William J. Miller, James B. Miller, Josephine Dixiey Green of the person and estate of H. J. Miller, James B. Miller and Miles Miller, Guard ad litem for H. J. Miller, James B. Miller, Defendants	
1.	325	92	State of Ohio ex rel Betsy Blythelane Plaintiff	Error

DATE 1927	DISPOSITION
March 31	Motion to discontinue petition in error overruled. Exceptions saved. Find no error. Judgment affirmed at cost of plaintiff in error. Remanded for execution. Exceptions saved. The sole issue was one of fact, namely, was either Valentine Patch or Irwin J. Patch for "a dependent child" within the intent of Section 1645, General Code. The evidence contained in the bill of exceptions failed to prove that issue. Phil. M. Crow Kent W. Hughes Charles L. Justice
Dec 14 1927	Find no Error of record. Judgment affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. The agreed statement of facts refered to in the judgment entry, and relied on by plaintiff in error, for reversal of the judgment, has not been brought on the record. 91 O.S. 398, 116 O.S. 123, 128, O. L. Rep., May 2nd 1927 Phil. M. Crow Kent W. Hughes Charles L. Justice Judges

Docket	Page	Case No.	STYLE	Kind
1	326	93	M. S. Doyle Plaintiff vs D. D. Harshbarger. Defendant	Error
1	327	94	The State of Ohio on relation of Betty Bytherton, ex parte, Plaintiff in Error vs Defendant in Error	Error
1	328	95	The Inter-Ocean Casualty Co Plaintiff in Error vs William E. Laube et al Defendant in Error	Error

DATE 1927	DISPOSITION
Dec 14	Petition in error dismissed, at costs of plaintiff in error. Exceptions saved. The journal entry shows that the trial court overruled the motion for new trial, but does not show that a judgment was entered on the verdict. The statement in the bill of exceptions that the court has entered up a judgment on the verdict, does not take the place of a journal entry. Phil M. Crow Kent W. Hughes Charles L. Justice Judges
1927 Nov 2	Find error in that the judgment is contrary to law. Judgment reversed at cost of defendant in error, and cause remanded for execution, and with direction to dismiss the petition. In the matter of the application of Virginia Brady for writ of Habeas Corpus in the Supreme Court of Ohio, Number 20443 decided May 11 th , 1927, followed. Phil M. Crow Kent W. Hughes Charles L. Justice Judges
1927 Nov 15	Find Error in overruling motion for new trial on the ground that the verdict is against the weight of evidence. Judgment reversed at costs of defendant in error. Verdict set aside and new trial awarded and cause remanded for execution, a new trial and further proceedings according to law. Exceptions saved. Justice J., is of the opinion that, in addition to said ground, the verdict is contrary to law, in that it is not sustained by ^{any} evidence. Phil M. Crow Kent W. Hughes Charles L. Justice Judges

Docket	Page	Case No.	STYLE	Kind
1,	329	96	Wm. L. Shoup Plaintiff vs Marinda Black and George H. Black	Error
1	330	97	Ernest Wallwood Plaintiff in Error vs The State of Ohio Defendant in Error	Error
1	332	98	Arthur Hoy Plaintiff in Error vs The State of Ohio Defendant in Error	Error

DATE	DISPOSITION
1927 Dec. 6 th	Petition in Error dismissed at cost of plaintiff in Error because of pendency of the appeal (Case No 99 in this Court) of the action of which the judgment herein complained of was returned. 78 O. S. 232. Exceptions saved. Phil M. Crow Kent W. Hughes Charles L. Justice Judges
1927 Oct 26 th	Dismissed by plaintiff in Error at his costs. Phil M. Crow Kent W. Hughes Charles L. Justice Judges
1927 Nov 1	Kind NO Error. Judgment affirmed without penalty at cost of plaintiff in Error. Remanded for execution. Exceptions saved. Phil M. Crow Kent W. Hughes Charles L. Justice Judges

Docket	Page	Case No.	STYLE	Kind
1.	333	99.	Marrida Black Plaintiff US Grace L. Shoup (formerly Grace L. Black) and Charles R. Shoup and Geo. H. Black Defendants	Appeal
1.	341	107	Victor Lyons, Plaintiff in error vs. The State of Ohio Defendant in error	Error
1	342	108	Hecima Armstrong Plaintiff in Error vs. The State of Ohio Defendant in - Error Oct 31- 1929 Ruling of the Supreme Court filed Journal 30 Page 425	Error
1	334	100	Sarah Stumpf et al., Plaintiff in error vs. The Sinclair Oil Refining Company Defendant in error	Error.

DATE 1928	DISPOSITION
Jan 20 th	Finding and decree at cost of defendant Grace L. Black, as follows: Contract rescinded, and deed for plaintiff, of the fifty acres cancelled; title of defendant George H. Black, to the tract conveyed by Hickok's, granted as against defendant Grace L. Shoup. Motion for new trial overruled, and exceptions saved to parties severally. Powers Equity Jurisprudence, Second Edition, Section 2108. 13 O.S. 49. The contract between plaintiff and defendants Grace L. Black and George H. Black was an entire one. When under Grace L. Black acquired her interest in the fifty acres conveyed by plaintiff, as well as when interest, if any, she acquired by the deed of Hickok's, for the sole consideration of personal service to plaintiff, and failure of that consideration inures to George H. Black as well as to plaintiff. Phil M. Crow Kent W. Hughes Charles L. Justice Judges
June 25 1929.	" Find no prejudicial error. Judgment affirmed at costs of plaintiff in error. Remanded for execution, Exceptions saved." Kent W. Hughes. Charles L. Justice Phil M. Crowe Judges.
June 27 1929	" Judgment affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. The only reason presented for reversal of the judgment was that the finding of guilt is not sustained by sufficient evidence. Whatever, if any, doubt exists pertaining to that point arises out of the conflict in the testimony, which situation prevents reversal of the judgment, regardless of the disposition which would be made by this court if it were the trier of the issue. 12 O.S. 146, syllabus 4, and page 156. Kent W. Hughes Charles L. Justice Phil M. Crowe Judges.
June 29 1929	Motion to dismiss petition in error overruled. Exceptions saved. Judgment reversed at costs of defendant in error. Final judgment rendered for plaintiff in error. Cause remanded for execution. Exceptions saved. Proceedings in review of a judgment are a continuation of the original case. Hence, Walter Stumpf, who appeared as guardian ad litem in the trial court, may appear for and on behalf of the infant here. 31 C. J. 1177, Section 371 1/2, and cases there cited. Infancy was pleaded and not denied. Hence the motion for judgment on the pleadings was well taken and should have been sustained. Section 11601 G.C. 18 Ohio, 579; 31 O.S., 492-498, applied and followed. Kent W. Hughes Charles L. Justice Phil M. Crow - Judges.

Docket	Page	Case No.	STYLE	Kind
1	335	102	C. Lewis Scheiderer, Plaintiff in error vs. The Bank of Marysville Defendant in error	Error
1	340	106	Joe M. Kinnikin, Plaintiff in error vs. J. B. Bashell, et al Defendant in error	Error
1	336	103	William Streng Plaintiff in error vs. R. W. Zimmermann Defendant in error	
1	340	106	Joe M. Kinnikin Plaintiff in error vs. J. B. Bashell et al Defendants in Error.	Error

DATE	DISPOSITION
July 9 1929	Find no prejudicial error. Judgment affirmed without penalty at costs of plaintiff in error. Exceptions saved. That the defendant bank might have sued the Wapakoneta Bank does not deprive it of its remedy against the plaintiff indorser. The authorities furnished by plaintiff in error do not gainsay this. The charging of the account of plaintiff with this item was proper. 50 O.S. 151. Kent W. Hughes Charles L. Justice Phil M. Crow Judges.
July 10 1929.	Find no error. Judgment affirmed at costs of plaintiff in error. Cause remanded for execution. Exceptions saved. Sections 6906, 6910, 6911 and 6919-2, General Code, applied. Kent W. Hughes Charles L. Justice Phil M. Crow Judges.
July 10 1929	Find no error. Judgment affirmed without penalty at costs of plaintiff in error. Remanded for execution. Exceptions saved. The only ground of error presented, is the weight of the evidence, and whilst the testimony of plaintiff and his wife, tending to prove the contract to have been with defendant, was materially at variance with plaintiff's conduct relative to his book-keeping and correspondence, the verdict is within the rule declared in 22 O.S. 118, 134, and 118 O.S. 167, 172, and can not be disturbed. Justice, J. dissents, being of opinion that the verdict is not sustained by sufficient evidence. Kent W. Hughes Charles L. Justice Phil M. Crow Judges.
July 17 1929	Application for rehearing denied. Exceptions saved. Notwithstanding Section 6910, General Code, has been repealed, the commissioners, under Sections 6906, 6911, and 6919-2 General Code, were authorized to make the improvement in question. Kent W. Hughes Charles L. Justice Phil M. Crow Judges.

Docket	Page	Case No.	STYLE	Kind
Cameron + Cameron			Perry H. Latham Plaintiff in Error	
1	343	109	- vs - The Columbus Mutual Life Insurance Company C. A. Hoopes. Defendant in Error	Error.
C. A. Hoopes.			The Columbus Mutual Life Insurance Company Plaintiff	
1	339	105	- vs - Gus Pallouze et al.	Appeal.
Cameron + Cameron. Milo L. Myers			Anthony Pfarr et al Plaintiff	
1	335	101	v. The Ohio Edison Company Defendant	Appeal
C. A. Hoopes				
Richard A. Thrall			Federal Brass and Manufacturing Co. Plaintiff in error	
1	338	104	v. Springfield Aluminum Plate & Casting Co. Defendant in error	
C. A. Hoopes				

May -

Term, 1929

DATE	DISPOSITION
July 23 1929	Proceeding in error dismissed at costs of plaintiff in error because the case is also before us on appeal. Kent W. Hughes Charles L. Justice Phil M. Crow. Judges.
July 23 1929	Finding, decree and judgment for plaintiff and against the defendant Perry H. Latham, as prayed for in the petition and supplemental petition. Costs assessed against the defendant, Latham. Motion for new trial overruled. Exceptions saved. The deed in terms provides for an assumption of the mortgage by the defendant Latham. His conduct, after the delivery of the deed to him, strongly tends to prove such an assumption, and the evidence to the contrary is far from convincing. Kent W. Hughes Charles L. Justice Phil M. Crow. Judges.
July 23 1929	Cause settled and costs paid and the same is stricken from the trial docket Kent W. Hughes, Charles L. Justice Phil M. Crow.
July 23	Proceedings in error dismissed for failure to prosecute, at costs of plaintiff in error. Exceptions saved. Kent W. Hughes Charles L. Justice Phil M. Crow

Docket	Page	Case No.	STYLE	Kind
Richard L. Thall			Leonard Armstrong Plaintiff	
1	346	112	- vs - Louise E. Mittendorf, Superintendent of Ohio Reformatory for Women	Habeas Corpus.
Henderson and Durbin			John P. Griffin Plaintiff in Error	
1	344	110	vs Wallace H. King Defendant in Error	Error
W. B. M. Liskey.			The Ohio Finance Co. Plaintiff in Error	
1	348	114	vs Abner M. Mahan. Defendant in Error	Error.
Myers & Lurie			In the Matter of Rosa C. Wolfe, Plaintiff in error	
1	345	111	vs Louis P. Pfeiffer Defendant in error	Error
Wm. P. Moloney			Roy Alexander Plaintiff - in Error	
1	350	116	vs. State of Ohio Defendant in Error	Error.
Keyes & Lurie			In the Matter of Rosa C. Wolfe, Plaintiff in Error.	
1	345	111	vs. Louis P. Pfeiffer Defendant in Error	Error.
Wm P. Moloney				

DATE	DISPOSITION
	Finding that Decima Armstrong is lawfully detained by Louise E. Mittendorf as Supt. as aforesaid, and ordered that the former be remanded to the custody of the latter. Judgment against plaintiff for costs. Exceptions saved. If Section 2148-12a was repealed by implication, Sec. 26, R.C., exempted the sentence from being affected, inasmuch as it was a criminal prosecution. Bouvier Law Dictionary. See also 70 O.S. 25. Kent W. Hughes, Chas. Justice, Phil Crow, Judges.
Nov 21 29	Find error in overruling motion for new trial on the grounds that there is error in the charge, and that the verdict is against the weight of the evidence. Judgment reversed at costs of defendant in error, new trial awarded, and cause remanded for execution, a new trial and further proceedings according to law. Exceptions saved. There was no evidence tending to prove contributory negligence; all the evidence on the subject of plaintiff's connection with the transaction, was to the effect that he was owner and bailor of the car in issue. 73 O.S. 1, syllabus 1, and 10 Ohio App. Rep. 427 app. Kent W. Hughes, Chas. Justice, Phil Crow Judges.
Apr 22 1930	Find no prejudicial error pointed out in the briefs. Judgment affirmed at cost of Plaintiff in Error. Cause remanded for execution. Exceptions saved. 22 O.S. 118, 134. 18 Ohio Appellate, 235, applied. Kent W. Hughes. Charles L. Justice Phil M. Crow.
June 13 1930	Petition in error dismissed at costs of plaintiff in error for failure of counsel for plaintiff in error to comply with Rule 81 of this Court. Exceptions saved. Charles L. Justice Phil M. Crow H. E. Garling Judges.
June 19 1930.	Find error in overruling motion for new trial on the ground that the verdict is not sustained by sufficient evidence. Judgment reversed and a new trial awarded. Cause remanded for execution, a new trial and further proceedings according to law. Exceptions saved. Charles J. Justice Phil M. Crow. H. E. Garling.
June 24-	Judgment entered under date of June 13, 1930, for good cause shown, set aside and vacated, Cause reinstated on docket. Briefs on behalf of Plaintiff in error to be filed by July 5, 1930; other briefs within rule. Exceptions saved. Charles L. Justice Phil M. Crow. Judges.

Docket	Page	Case No.	STYLE	Kind
Hinderson & Shubin			Leonard Armstrong Plaintiff	
1	347	113	vs.	Error.
Richard C. Thrall			State of Ohio Defendant	
C. C. Clouse & Milo L. Myers			William W. Parmen Plaintiff	
1	351	117	vs.	Error.
Richard C. Thrall			State of Ohio Defendant	
C. C. Clouse & Milo L. Myers			William Parmen Plaintiff	
1	351	117	vs.	Error
Richard C. Thrall			The State of Ohio Defendant	
Los Hartly-			Seymour M. Aninch Plaintiff	
349	115		vs.	Error.
J. W. Jacoby			Rolland P. Perry	

DATE	DISPOSITION
June 26	Find no error. Judgment affirmed at costs of plaintiff in error. Cause remanded for execution. Exceptions saved. There is no bill of exceptions containing any evidence in support of motion for change of venue, 22 C. C. 364-366. As to the sufficiency of the evidence, it need only be said that the bill of exceptions sets forth ample evidence, the credibility of which was for the jury, to sustain the finding of guilt beyond reasonable doubt. The only error urged against the charge, pertained to the importance of the case. Even though that language had no place in the charge, it is impossible to discern where it could possibly have harmed the accused. Charles L. Justice Phil M. Crow. H. E. Garling judges.
June 27	see pg 33 Cause re-assigned for further argument at Lima, Ohio, July 1, 1930, ten o'clock A.M. State granted leave to file answer brief to supplemental brief of accused, to which is attached copy of Marysville Tribune under date of August 21, 1929. Charles L. Justice Phil M. Crow. H. E. Garling.
July 2	Find error in overruling motion for new trial upon the ground that the verdict is not sustained by sufficient evidence. Judgment reversed at costs of defendant in error and a new trial awarded. Cause remanded for a new trial and further proceedings according to law. Exceptions saved. Charles L. Justice Phil M. Crow. H. E. Garling.
July 21	Find no error. Judgment affirmed without penalty at costs of plaintiff in error. Remanded for execution. Exceptions saved. 1. The decision overruling the motion to set aside and vacate first order appointing a receiver, if a final order under the reasoning in 110 O.S. 188, was entered more than seventy days prior to the commencement of this proceeding in error. See 26 O.C.A. 324. 2. If plaintiff's cause of action was at law, so that he was entitled to trial by a jury, he waived such right 58 O.S. 373. 3. There was no issue of reformation of the second agreement, and though some evidence was introduced tending to prove that said contract did not express the actual intention of the parties, the court was not obliged to decide that matter. Whatever, if any ambiguity there was in the first contract, was removed by the second contract which in clear and unequivocal terms made defendant liable for \$7845.00, and it therefore became the duty of the court to award judgment for that amount, with interest, less amounts realized by plaintiff, with interest, from the proceeds of the goods. Charles L. Justice Phil M. Crow. H. E. Garling.

Docket	Page	Case No.	STYLE	Kind
Henderson & Shubin			Leonard Armstrong	
1	347	113	State of Ohio ^{vs}	Error
Richard C. Thrall			Oct 30- 1930 Ruling of Supreme Court filed see Journal 30 Page 140	
John W. Sailer			Federal Brass and Manufacturing Company.	
1	352	118	Pltf - in Error	Error.
Wm. J. Porter.			John R. Loughrey. Def - in - Error	
Kyser & Lurie			In the Matter of Rosa C Wolfe, Plaintiff in error	
1	345	111	vs Louis Puffer Defendant in error	Error
Overhart and Warner			Clara B Shaw Administratrix etc.	
1	354	120A	vs	Error Appeal.
William J. Porter			David Westbrook et al	

DATE	DISPOSITION
July 26	Application for rehearing denied. Exceptions saved. Chas L. Justice Phil M. Crow. H. E. Garling.
Sept 17	Motion to dismiss petition in error for failure to comply with Rule Eight of this court, sustained. Petition in error dismissed at costs of plaintiff in error. Exceptions saved. Charles L. Justice Phil M. Crow H. E. Garling
Nov 28 1930	Judgment of the Court of Common Pleas reversing judgment of the Court of Probate, reversed and judgment of the Probate Court affirmed, at costs of defendant in error Rosa C. Wolfe. Cause remanded for execution. Exception saved. 26 O.S. 357, followed. Rockell's Complete Probate Practice, Section 745. Chester Pendleton } Judges Charles L. Justice } Phil M. Crow }
Mar 17 1931	Motion to dismiss appeal overruled. Exceptions saved. Notwithstanding that a proceeding by an administratrix to sell real estate is not appeal- able, still when in such proceeding the priority of a mortgage is involved, that portion of the judgment which fixes its priority, is appealable for the reason that such determination is cognizable in equity. 2 Ohio Jurisprudence, page 119 Section 91. Charles L. Justice Phil M. Crow. William Klingner

Docket	Page	Case No.	STYLE	Kind	DATE	DISPOSITION
Edward J. Greely I Gwynn Sanders.	123		Howard Daniels Plaintiff in Error. vs. State of Ohio Defendant in Error.	Error -	April 8 1931	Find no error. Judgment affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. The only question presented in this court, for reversal of the judgment is the weight of the evidence; that is, whether the bill of exceptions sets forth sufficient evidence to sustain the finding of the trial judge, of the guilt of the defendant, beyond a reasonable doubt. The bill of exceptions does contain evidence which if believed by the trial judge, was of sufficient probative evidence force to establish guilt by the said requisite degree of proof, and also sets forth evidence tending to disprove such guilt. It is elementary that the credibility of the witnesses who thus testified, in other words, the truthfulness or untruthfulness of their testimony in whole or in part, - was a matter for determination by the trial judge. It is also elementary that this reviewing court must conclusively presume the trial judge to have believed such of the evidence as supported the finding of guilt. Hence the sole point for decision here, is whether the opposing evidence overcame the evidence which tended to prove the guilt as aforesaid. This point must be decided adversely to the plaintiff in error under the rule announced in the opinion in 121 O.S. 562, especially at pages 569 and following. Charles L. Justice Phil M. Crow Wm. Klunzer Judges.
Edward J. Greely I Gwynn Sanders.	122		George Daniels Plaintiff in error. vs. State of Ohio Defendant in error	Error	Apr May 1 - 1931	Find no error. Judgments affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. The whiskey, according to the undisputed evidence, was transported by the accused in his automobile prior to the unlawful sale. No property rights existed in such liquor and hence title to the whiskey could not pass, within the meaning of Section 8391, et seq., General Code, from the accused to the complaining witness Fred Henssely. Rocanski v. State, 106 O.S. 442-435, Section 6210-16, General Code. There is no evidence of entrapment. Hence, this claim of error is not well taken. Volume 8 Ruling Case Law, Section 1005, page 128. Charles L. Justice, Phil M. Crow, Wm. Klunzer, Judges.

Docket	Page	Case No.	STYLE	Kind
W.P. Maloney			Mayoria Peet Plaintiff in error.	
		121	vs.	Error.
B.A. Hoopes			Ralph Peet Defendant in error.	
Mouser & Cameron			Glade Ballard Plaintiff in error.	
		119	vs.	Error
B.A. Hoopes			State of Ohio ex rel Frances Welsh, Defendant in error	
Milo L. Fryers			Joseph A. Ridgeway Plaintiff in Error.	
1	358	124.	vs.	Error.
Gwynn Sanders			The State of Ohio Defendant in Error.	
Porter & Porter			Vinson Long Plaintiff in Error	
1	359	125	vs.	Error
Gwynn Sanders			The State of Ohio Plaintiff in Error	

DATE	DISPOSITION
June 6 1931	Find error in overruling motion for a new trial on the ground that the decision is not sustained by sufficient evidence. Judgment reversed at costs of plaintiff in error and a new trial awarded. Cause remanded for execution, a new trial and further proceedings according to law. Exceptions saved.
	A short time prior to the filing of the petition, the parties voluntarily sexually knew each other. Hence, any known prior act of extreme cruelty was, by reason thereof, forgiven and condoned. Thereafter, by the overwhelming weight of the evidence, defendant did not do anything warranting or justifying the trial court in granting plaintiff a divorce.
	Charles L. Justice Phil M. Crow Wm Klinger Judges.
May 18 1931	Cause settled. See journal entry
	Charles L. Justice Phil M. Crow Wm Klinger Judges
July 8 1931	Find no error. Judgment affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. As to the sufficiency of the evidence, the case is controlled by Breese v. State, 12 O.S., 146, and kindred cases.
	Charles L. Justice Phil M. Crow Wm Klinger Judges.
Aug 13 1931	Find no error. Judgment affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. As to the sufficiency of the evidence, the case is controlled by Breese v. State, 12 O.S. 146, and kindred cases.
	Charles L. Justice Phil M. Crow Wm Klinger Judges.

DATE	DISPOSITION
Aug 15 1931	Finding for plaintiff and against defendant The Union County Savings & Loan Company, as in the court of common pleas. Costs to be paid out of the proceeds of sale. Remanded to the court of common pleas for further proceedings. Decree accordingly. Motion for new trial overruled. Exceptions saved. Justice, PJ. concurs in the decree for the following reasons: Concededly, the Loan Company, prior to the execution of the mortgage, had notice of the provisions of Item One of the will. In this item the testatrix directed that her funeral expenses be paid out of her estate. The Loan Company was therefore put upon inquiry. Under the law, it was required to prosecute this inquiry with reasonable diligence. This, we hold, it did not do. Hence, the Loan Company is not a bona fide incumbrancer for value, within the meaning of Section 10774-1, General Code. See, East v. Umbaugh, 22 O.C. Report, 409-414-4/5. Crow, J. concurs on the ground above stated, and also on the reasoning of, and the authorities referred to in, the opinion of the Judge of the court of common pleas, supplemented by the text and notes at page 1148 of Volume 8 Corpus Juris. Klinger, J. dissents, being of opinion that the Loan Company is a bona fide incumbrancer for value, under Section 10774-1, General Code. Charles L. Justice Phil M. Crow Wm. Klinger. Judges.
Oct 7 1931.	Petition in error dismissed at costs of plaintiff in error. Exceptions saved. This cause was heard on appeal and disposed of on August 15, 1931 with a finding and decree for plaintiff. Charles L. Justice. Phil M. Crow. Wm. Klinger. Judges.

Docket	Page	Case No.	STYLE	Kind	DATE	DISPOSITION
M. Myers Threlk Sander		128	B. E. Baker. Pltf. in Error. - vs - G. W. Butcher Def. in Error.	Error	June 25 1932	Find error in overruling motion for new trial on the ground that the damages are excessive, appearing to have been given under the influence of passion and prejudice. Judgment reversed at costs of defendant in error, verdict set aside, new trial awarded and cause remanded for execution, a new trial and further proceedings according to law. Exceptions saved. Phil M. Crow. Wm. Klingner W. H. Kinder. Judges.
		130.	Mary Lyman. Pltf. in Error. - vs - Hana Evans et al. Def. in Error.	Error.	June 25 1932	Find no error. Judgment affirmed without penalty at costs of plaintiff in error. Remanded for execution. Exceptions saved. There is no bill of exceptions and there is no finding of facts; consequently, the errors complained of in the briefs of plaintiff in error cannot be determined. 94 O.S. 110 syllabus 2. Phil M. Crow. Wm. Klingner W. H. Kinder. Judges.
		127.	The Industrial Commission of Ohio - vs - Maud M. Adow.	Error	July 14. 1932	Find no error in any particular pointed out in the briefs of plaintiff in error. Section 12248 General Code. Judgment affirmed without penalty at costs of plaintiff in error. Remanded for execution. Exceptions saved. The only question raised is whether the evidence tended to prove that decedent, at the time he was injured, was within the protection of the statute, which question we hold must be answered in the affirmative. Phil M. Crow Wm. Klingner W. H. Kinder. Judges.
		131	The Radebaugh-Graham Co. - vs - The Marion Sand and Gravel Co.	Error	Sept 27 1932	Find no error. Judgment affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. Penalty excused. The second ground of defendants' motion voluntarily entered its appearance. 37 O.S. 366; 43 O.S. 171; 110 O.S. 147. Phil M. Crow. Wm. Klingner W. H. Kinder. Judges.
		132.	G. W. Miller - vs - Carrie Carr.	Error	Sept 28 1932	Find no reversible error. Judgment affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. Crow, J., dissents on the ground that as to the issue of compensation for existing, lasting and valuable improvements, the finding is against the weight of the evidence, for which reason the judgment should in his opinion, be reversed, and the cause should be remanded with direction to find in favor of the defendant G. W. Miller, and establish a lien for such improvements as he made, substantially in accordance with the statutes of Ohio governing the like subject in relation to relief to occupying claimants. Phil M. Crow. Wm. Klingner W. H. Kinder. Judges.

38

Docket	Page	Case No.	STYLE	Kind
		#133.	Rolly Lloyde -vs- Ernest Moore	Error
		129-	Robert M. Blank. -vs- Enos Gilbert	Error
		136.	Thurman Warner -vs- State of Ohio ex rel Mary Henderson	Error

DATE	DISPOSITION
Jan 25-'33	Passing over without comment, any question which might be raised concerning the laying of the foundation in the court below to review the evidence, and deciding the only question presented, namely, the sufficiency of the evidence to sustain the finding and judgment, it is entirely clear that the evidence contained in the bill of exceptions, amply justifies the finding and judgment. The rule on that subject is well stated in <u>Dean v. King</u>, 22 O.S. 118, 134 and kindred cases. Judgment affirmed at costs of plaintiff in error, but without penalty, and cause remanded for execution. Exceptions saved. Phil M. Crow Wm Klingew W. H. Kinder Judges.
Jan 26-'33	Find no error. Judgment affirmed without penalty at costs of plaintiff in error. Remanded for execution. Exceptions saved. The journal entries show a trial verdict and judgment, and the bill of exceptions sets forth an agreement of settlement between plaintiff and defendants, and the direction of a verdict should be pursuant thereto, in which defendants acquiesced. Whether under the doctrine of invited error, or for failure to lay the foundation in the court below for attack on the proceedings, or otherwise, the record under review presents nothing available to plaintiff in error here. Phil M. Crow. Wm Klingew W. H. Kinder Judges.
Jan 26-'33	Find error in overruling motion for new trial, on the ground of newly discovered evidence. Judgment reversed at costs of defendant in error. Cause remanded for execution, a new trial and further proceedings according to law. Exceptions saved. Judges Klingew and Kinder would also reverse the judgment for error in overruling the motion for new trial on the ground that the verdict is not sustained by sufficient evidence. Judge Crow holds otherwise, which prevents reversal on that ground. Phil M. Crow. Wm Klingew W. H. Kinder Judges.

Docket	Page	Case No.	STYLE	Kind
		#141	Henry Carnish vs State of Ohio.	Error
		#138	Ada Phillips Plaintiff-in-error - vs - Stephen J. Hart, Admr. Defendant in error	Error
		145	American Surety Company of New York. Plaintiff-in-error. - vs - Fred A. McAllister Admr etc. Defendant-in-error	Error
		143.	The Ohio Mutual Tornado, Cyclone & Windstorm Insurance Assn. Plaintiff-in-error - vs - Annetta Warbs. Defendant in-error.	Error
		145	The American Surety Company of New York. Plaintiff-in-error. - vs - Fred A. McAllister, Admr etc. Defendant in error	Error

DATE	DISPOSITION
3 25 33	Find error in overruling motion for new trial on the ground that the verdict is not sustained by sufficient evidence. Judgment reversed at costs of defendant in error and verdict set aside. Cause remanded for further proceedings according to law. Exceptions saved. Phil M. Crow Wm. Klingner Charles A. Guernsey Judges.
June 5-33	Case settled; dismissed and costs paid. Phil M. Crow. Wm. Klingner Charles A. Guernsey Judges.
July 10-33	Letter of P. N. Sigler of counsel for defendant in error, dated July 8, 1933, treated as a motion to vacate assignment for submission on July 17, 1933, and as such, overruled. Exceptions saved. Phil M. Crow. Wm. Klingner Charles A. Guernsey-Judges.
July 19-33	The only error claimed is that the verdict is against the weight of the evidence. Find no error. Judgment affirmed without penalty at costs of plaintiff in error. Remanded for execution. Exceptions saved. Crow, P. J., not participating. Wm. Klingner Charles A. Guernsey Judges.
Aug 7-33	Continued from day to day, sua sponte, to abide the determination of case number 146, In the matter of the Estate of Sarah Jane Howison deceased. Phil M. Crow. Wm. Klingner Charles A. Guernsey Judges.

Docket	Page	Case No.	STYLE	Kind
		146.	In the Matter of the Estate of Sarah Jane Howison deceased.	Error
		142.	Lawrence H. Jolley - vs. S. J. Bown. Admr.	Error
		140.	Jacob Schurch et al. - vs. John Harraman et al.	Sept Error

DATE	DISPOSITION
Aug 4-33	Find error in dismissing the appeal, the parties by agreement having dispensed with the bond to perfect appeal, and appellee having waived the statutory requirement of filing a transcript of the docket or journal entries, by going forward with the trial in the Court of common pleas without objection, and also by having filed such transcript after the time fixed by statute. Judgment reversed at costs of defendant in error, and cause remanded for execution, and with direction to the court below to determine the appeal upon its merits according to the agreed facts and the evidence set forth in the bill of Exceptions taken upon the trial of the exceptions on appeal, both the transcript and bill of exceptions showing such trial. Exceptions saved. Phil M. Crow. Wm Klunger Charles A. Guernsey Judges
Sept 27-33	Find no error. Judgment affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. Opinion filed. Phil M. Crow. Wm Klunger Charles A. Guernsey Judges.
Sept 28-33	Find no error. Judgment affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. Opinion filed. Phil M. Crow. Wm Klunger Charles A. Guernsey. Judges.

Docket	Page	Case No.	STYLE	Kind	DATE	DISPOSITION
		135	<i>The Richwood Banking Co.</i> -vs- <i>H. C. Le Masters et al.</i>		<i>Oct 3-33</i>	Finding, judgment and decree for plaintiff and against defendants, adjudging the mortgage in controversy, void, as a known preference within the terms of Sections 11104 and 11105, General Code, and 121 O.S. 8. Costs to be paid out of fund realized as hereinafter prescribed. By the evidence of Fred Rapp, it is proved that defendant Fox, knew some time prior to July 27, 1931, that defendant Osa LeMasters was with defendant H.C. LeMasters, then indebted in the sum of not less than \$4954 to The Richwood Banking Company, and there is no evidence tending to rebut the presumption of the continuation of said indebtedness; in addition, defendant Fox at all times knew of the existent annuity due Sarah E. Eddy, which was and is a lien on the lands in issue; and the very intimate relationship between defendant Fox and defendants LeMasters, was such that in connection with the facts we have just mentioned, and of other facts established by the evidence, there can be no doubt that, apart from considerations of constructive notice or knowledge, treated in 27 Corpus Juris, Pages 506 to 509, 513 and 534, defendants LeMasters and Fox actually accomplished the known and therefore wrongful and void preference under said Sections, General Code. That situation makes unnecessary any discussion of the duty of defendant Fox to have made inquiry, and the consequences of his failure to do so, under the doctrine set forth in Corpus Juris above cited. Said Sarah E. Eddy ordered sua sponte, to be made party defendant herein by service of summons pursuant to praecipe to be filed by plaintiff, or by voluntary entry of her appearance, forthwith she to have the statutory time to plead her interest in the premises in issue, with a view to the satisfaction or perpetuation thereof. appointed receiver to administer the property pursuant to Section 11106, General Code, he to give bond with sureties to the approval of the clerk of courts, in the sum of \$_____. Motion for new trial overruled. Exceptions saved. Phil M. Crow Wm. Klinger Charles A. Guernsey Judges.
		144-	<i>Irma L. Rodgers et al. et.</i> <i>Pltf in error.</i> -vs- <i>Emma L. Conklin et al. et.</i> <i>Defendant in error.</i>	<i>Error</i>	<i>Oct 6-33</i>	Find no error as to defendant in error Pennsylvania Railroad Company, there being no evidence tending to prove its alleged negligence. Judgment as to it affirmed at costs of plaintiffs in error, and cause remanded for execution. Find error as to defendants administratrix and administrator, in directing verdict for them, because there was evidence tending to prove actionable negligence on the part of Lewis H. Conklin, deceased, and Roland Conklin, deceased, was not proved to have been guilty of contributory negligence as a matter of law, the issue of contributory negligence being for the jury. 122 O.S. 391; 93 O.S. 304; 98 O.S. 432. Judgment as to defendants in error Conklins administratrix and administrator reversed at their costs on error, new trial awarded and cause remanded for execution, a new trial and further proceedings according to law. Exceptions saved to parties severally. Phil M. Crow Wm. Klinger Charles A. Guernsey Judges.
		150	<i>State of Ohio</i> -vs- <i>Ed Sorgen</i>	<i>Error</i>	<i>Oct 7-33</i>	Find error in quashing information. 1 Corpus Juris, 796, and 18 Ohio Decisions, 478 and cases therein cited. Judgment reversed at costs of defendant in error and cause remanded for further proceedings according to law. Exceptions saved. Phil M. Crow Wm. Klinger Charles A. Guernsey Judges

Docket	Page	Case No.	STYLE	Kind	DATE	DISPOSITION
		151	James I Myers. - vs - Board of Education of Dover Twp Rural School District	appeal	Oct 10	Finding, decree and judgment for defendants at costs of plaintiff. Motion for new trial overruled. Exceptions saved. Remanded for execution. Opinion filed. Phil M. Crow. Wm Klinge. Charles A. Guernsey Judges.
		152	James I Myers - vs - Board of Education of Dover Twp. Rural School District	appeal	Oct 10	Finding, decree and judgment for defendants at costs of plaintiff. Motion for new trial overruled. Exceptions saved. Remanded for execution. Opinion filed. Phil M. Crow. Wm Klinge. Charles A. Guernsey Judges.
		150	The State of Ohio - vs - Ed Sorgen.	Error	Oct 14-	Rehearing denied. Exceptions saved. Sections 2, 3, 9 General Code. 22. Ruling Case Law 5-82 et seq. 46 Corpus Juris 1062 et seq. Phil M. Crow. Wm Klinge. Charles A. Guernsey Judges.
		147	O. R. M ^c Coy. - vs - D.P. Anderson Receiver of The First National Bank of Richwood Ohio	Error	Oct 24	Find error in that the judgment is contrary to law. Judgment reversed at costs of defendant in error. Remanded for execution. Exceptions saved. Opinion filed. Phil M. Crow. Wm Klinge. Charles A. Guernsey Judges.
		148	L. J. M ^c Coy. - vs - D.P. Anderson Receiver of The First National Bank of Richwood O.	Error	Oct 24	Find no error. Judgment affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. Opinion filed in case 147. Phil M. Crow. Wm Klinge. Charles A. Guernsey Judges.

Docket	Page	Case No.	STYLE	Kind
			The Richwood Banking Company	
		135	- vs - H. C. Le Maitre et al.	M
			Harry Creager	
		149	- vs - D. P. Anderson Receiver etc.	Error.
			Ella S. Blue	
		154	- vs - Fred Gabriel Executor	
			Georges Schlegel	
		158	- vs - The Bank of Marysville	Appeal
			Milo L. Myers	Appeal
		161	- vs - The Union Banking Company of Marysville O.	

DATE	DISPOSITION
Mar 3-1934	By agreement of parties, Gwynn Sanders appointed master commissioner to take the evidence pertaining to the issues and cause the same to be transcribed and filed herein not later than March 24, 1934. Journal entry to be approved by all interested counsel and by them filed with the clerk. Phil M. Crow. Wm Klinger Charles A. Guernsey Judges.
Jan 31-1934	I find error in that the judgment is contrary to law. Judgment reversed at costs of defendant in error and cause remanded for execution and further proceedings in accordance with the opinion. Exceptions saved. Opinion filed. Phil M. Crow. Wm Klinger Charles A. Guernsey. Judges.
May 8-34	Settled. See journal entry prepared by counsel and by them filed with the clerk. Phil M. Crow. Wm Klinger Charles A. Guernsey. Judges.
May 9-34	Appeal dismissed sua sponte, the case not being a chancery one. Article 4, Section 6, Constitution of Ohio. Exceptions saved. Phil M. Crow. Wm Klinger Charles A. Guernsey. Judges.
May 18-34	Finding and judgment establishing claim of plaintiff for amount prayed for in the petition with interest. Finding and judgment against plaintiff on the issue of preference. Costs adjudged against defendants. Motion of parties for new trial, overruled. Exceptions saved. By causing or consenting to the proceeds of litigation being paid direct by debtors to bank, plaintiff waived any lien he may have been entitled to have for services and expenditures as attorney on such proceeds. Bowers Law of Wainer 1914 Edition page 152, 4 Ohio Jurisprudence page 511. Goodrich v. M & Donald et al. Court of Appeals New York 19 N.E. Page 649 and 651. Phil M. Crow. Wm Klinger Charles A. Guernsey. Judges.

Docket	Page	Case No.	STYLE	Kind
			Wilbur C. Temple	appeal
		157	- vs - The Board of County Commissioners of Union Co Ohio	

		153	Charles Snowden as Receiver of E. S. Petty - vs - J. J. Fulton Supt of Banks	appeal
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DATE

DISPOSITION

IN THE COURT OF APPEALS FOR UNION COUNTY, OHIO.

Wilbur C. Temple,

Plaintiff.

vs.

Number 157.

The Board of County Commissioners
of Union County, Ohio,

Defendant.

TO THE CLERK:

In the above entitled action, entering the following minutes on the trial docket, as of date June 6, 1934, and at once inform all attorneys of record in said action, to wit:

Finding, decree and judgment dismissing plaintiff's petition at his costs. Motion for new trial overruled. Exceptions saved.

When the road on issue was established it was as a matter of law of a width not less than sixty feet and there is no proof that it was ever narrowed by any proceeding. The steps taken pursuant to the petition of David R. White and others did not by either its terms or effect work a narrowing of the limits of the road, going no farther than to improve a portion of the road within said width of not less than sixty feet.

Such obstructions as are within the limits of the road, cannot rightfully remain there excepting as provided in Section 7204-las, General Code.

Plaintiff could not have acquired title or right to possession of unimproved portion of road within said width of not less than sixty feet, by adverse possession and the rule of equitable estoppel does not apply in aid of plaintiff. 41 Ohio Appellate, 121.

Upon the establishment of a public highway the owner of the fee retains the right of the trees, shrubs and herbage growing on the land, only for purposes not incompatible with the right of way and he may maintain an action in respect to them only when not taken for the purpose of making or repairing the road or lawfully abated as a hinderance or annoyance to travelers thereon. 20 Ohio Jurisprudence, 809.

Section 7210 and cognate sections of the General Code do not change this rule. The authority conferred on the county surveyor under that section is in addition to the jurisdiction conferred on the county commissioners over county highways and does not in any way abrogate the right of the county commissioners under the rule mentioned, to cut down and destroy trees, shrubs and herbage growing within the limits of the highway for the purpose of making or repairing the road. The section mentioned does not in terms purport to abrogate such right in any way and public rights will not be treated as relinquished or conveyed away by inference or legal construction. Lewis' Sutherland Statutory Construction, Volume 2, Second Edition, page 1038.

Crow, P. J., dissents from the finding, judgment and decree so far as the trees and shrubs are concerned, and would grant an injunction to plaintiff at costs of defendants against destruction or injury to the trees and shrubs, subject to the right to take same by proceedings for appropriation, be cause Section 7210, General Code plainly places the control of all trees and shrubs in county roads, in the county surveyor with the consent of the abutting land owner, and that plainness makes unnecessary a resort to the rules of statutory construction.

Phil M. Crow

Wm. Klinger

Charles A. Guernsey

Judges.

Finding and judgment that the account of the Receiver was not a special deposit and therefore does not constitute a preferred claim. Costs adjudged against plaintiff. Motion for new trial overruled. Exceptions saved. Opinion filed.

Phil M. Crow

Wm. Klinger

Charles A. Guernsey

Judges.

Docket	Page	Case No.	STYLE	Kind
		#159	Industrial Commission of Ohio - vs - Laura Kane	Error
		#158-	George Schlegel Sr. - vs - The Bank of Marysville et al.	Appeal
		#160	The Richwood Banking Company - vs - H. C. Le Masters, Asa O. Le Masters, Christina Le Masters	Appeal

DATE	DISPOSITION
May 31-	Find error in overruling motion of defendant for a directed verdict at the close of all the evidence. Judgment reversed at costs of defendant in error, verdict set aside and final judgment entered for plaintiff in error. Exceptions saved. Opinion filed. Phil M. Crow Wm. Klinger Judge Charles A. Guernsey
May 24-34	Find no error. Judgment affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. The only error relied on is that the court erred in overruling motion for new trial on the ground that the decision is against the weight of the evidence which claim of error cannot be sustained under the thoroughly established rules set forth in 30 Ohio Jurisprudence at pages 109 to 118. See especially 4 O.S. 568. Phil M. Crow Wm. Klinger Judge Charles A. Guernsey
June 26-34	Finding, decree and judgment for defendants and petition dismissed at costs of plaintiff. Motion for new trial overruled. Exceptions saved. Whether the holding of the legal title by defendants Harley C. and Asa O. Le Masters, was in substance an equitable mortgage in their favor (defendant Christina Le Masters having repaid the \$4500 advanced by Harley C. Le Masters), or whether that advance and the \$7500 furnished by Christina Le Masters be regarded as constituting a resulting trust amounting to \$12,000 in her favor, the value of the land at the time of the conveyance to her, not being shown by the evidence to have been less than the amount of such resulting trust and the mortgage, the deed to her could not have been either actually or constructively fraudulent, nor did it constitute a preference within the terms of Section 11104 General Code. Nor is the doctrine of estoppel applicable. See 17 C.C. (N.S.) 20. Phil M. Crow. Wm. Klinger Charles Guernsey Judges.

Docket	Page	Case No.	STYLE	Kind
		#156	In the Matter of the Estate of Sarah Jane Howison deceased.	Error
		145	The American Surety Company of N. Y. - vs - Fred A. M. & Allister, Admr. de bonis non etc. et al.	Error
		135	The Richwood Banking Company. - vs - H. C. Le Masters et al.	appeal
		163	Wiley B. Pierap - vs - Hudson Jeffries	Error
		165	Richard L. Cameron Executor - vs - Ada Cook	Error

DATE	DISPOSITION
June 27-'34	Find no error. Judgment affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. Opinion filed. Phil M. Crow. Wm. Klinger Charles A. Guernsey. Judges.
June 27-'34	Find no error. Judgment affirmed without penalty at costs of plaintiff in error. Remanded for execution. Exceptions saved. Phil M. Crow. Wm. Klinger Charles A. Guernsey Judges.
June 28-'34	Finding, decree and judgment as set forth in per curiam filed herewith, costs to be paid out of proceeds of property. Motion for new trial overruled. Exceptions saved. Per curiam filed. Phil M. Crow. Wm. Klinger Charles A. Guernsey Judges.
Oct 22-'34 Error	Dismissed at costs of plaintiff in error for want of prosecution. Exceptions saved. Phil M. Crow Wm. Klinger Charles A. Guernsey. Judges.
Oct 22-'34 Error	By agreement of counsel, supplemental brief of plaintiff in error to be filed November 20, 1934; other briefs to be filed within rule. Oral arguments waived. Phil M. Crow Wm. Klinger Charles A. Guernsey. Judges.

Docket	Page	Case No.	STYLE	Kind
			Andrew Smith	
164.		- vs -	Milo L. Myers Ancillary Admin.	Error
			etc.	
			Andrew Smith	
164.		- vs -	Milo Myers Administrator etc.	Appeal

DATE	DISPOSITION
Oct 26-34	Find no error. Judgment affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. The application of the domiciliary administrator, the petition later filed by the ancillary administrator and the subsequent proceedings made a case under Section 10511-16, General Code, justifying the order of sale in view of an introduction at page 20 of the bill of exceptions, of Plaintiff's Exhibit 1 without objection, said exhibit, containing documents tending to prove necessity for the sale of the real estate in controversy. It must be presumed, and there was no evidence to the contrary, that the ancillary administrator complied with Section 10511-17, General Code, and no evidence was introduced tending to show that an attempt was made pursuant to Section 10511-18, General Code, to prevent the sale of any part of the real estate. The sale of all the real estate in controversy instead of only a part thereof, is sustained by sufficient evidence. Phil M. Crow. Wm Klingner Charles A. Guernsey. Judges
Oct 22-34.	Appeal dismissed by appellant at his costs. Phil M. Crow. Wm Klingner Charles A. Guernsey. Judges.

Court of Appeals Docket

Docket	Page	Case No.	STYLE	Kind
			Carl Harrison VS Cora Howard, Jr.	Error
166				
			Clarence A. Hildreth Plaintiff-in-error	Error
155			-VS- Evelyn A. Hildreth Defendant-in-error	
			Lilly Rausch VS Harry J. G. Rausch	Error
170				
			The Marysville Commercial Bank of Marysville, Ohio	Error
169			VS The Hon. D. Carmean Company, of Marysville, Ohio	

DATE	DISPOSITION
Feb 15-1935	Find no error. Judgment affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. All the assignments of error presented by the brief of plaintiff in error, involve steps taken by the trial court, none of which was brought sufficiently on the docket of the justice of the peace by entry thereon, to show the alleged error, or by a bill of exceptions. W ^m Klinger Charles A. Guernsey Phil M. Crow. - Judges.
Mar 16-35	Petition in error dismissed by plaintiff in error at his costs. See journal entry W ^m Klinger Charles A. Guernsey Phil M. Crow. Judges.
Sept 3-35	Find no error. Judgment affirmed without penalty at costs of plaintiff in error. Remanded for execution. Exceptions saved. The only ground of error presented is that the decision is against the weight of the evidence, which ground can not be sustained because the evidence contained in the bill of exceptions is in such state as to make applicable the rule elaborated in 2 Ohio Jurisprudence at pages 745 and following. W ^m Klinger Charles A. Guernsey Phil M. Crow. Judges.
	Find no error in any particular pointed out in the brief of plaintiff in error. Section 12248, General Code. Judgment affirmed without penalty at costs of plaintiff in error. Remanded for execution. Exceptions saved. W ^m Klinger Charles A. Guernsey Phil M. Crow Judges.

Docket	Page	Case No.	STYLE	Kind
			Charles Stewart	
			vs	
168	168		Clepton L. Caryl et al.	Error

DATE	DISPOSITION
Oct. 29, 1935	Find no error. Judgment affirmed at costs of plaintiff in error. Remanded for execution. Exceptions saved. Klinger P.J., dissents. The bill of exceptions sets forth conflicting assertions of counsel relative to what was said between them pertaining to the submission of the journal entry overruling the motion for new trial, to plaintiff's counsel by counsel for defendant, and also the statement of the trial judge (who decided plaintiff's motion to strike) relative to the formulation of said journal entry which the trial judge ordered, and which he approved and filed; and also his statement that the court had no rule requiring such a journal entry to be submitted to plaintiff's counsel. And the bill of exceptions contains no evidence of a rule on the subject. Furthermore, plaintiff's counsel's assertion showed that he heard the court announce the decision overruling the motion for new trial, saving exceptions to plaintiff, and almost immediately thereafter communicated with the official stenographer who took stenographic notes at the trial, the subject of such communications being the preparation of a bill of exceptions for plaintiff. Such situation being shown by the bill of exceptions in this proceeding in error, plaintiff in error has no ground of complaint against the journal entry remaining on the journal as of the date it there bears. Klinger P.J. dissenting. According to the record as I interpret the same, a wrong has been done plaintiff in error, and substantial justice requires a new trial be granted and the party given an opportunity to present his case to a court and jury, since in this way only can substantial justice be done to all parties interested in the suit. Section 11364, General Code. Warrants this action, in my opinion. W^m Klinger Charles A. Guernsey Phil M. Crow Judges

Docket	Page	Case No.	STYLE	Kind
		168	Charles Stewart vs. Clifton L. Caryl et al.	Error
		171	Bert A. Paxson Plaintiff vs. Hudson S. Smith, et al. Defendant	Appeal
		171	Bert A. Paxson, Plaintiff, vs. Hudson S. Smith, et al., Defendant.	Appeal

DATE	DISPOSITION
Nov. 9, 1935	Application for rehearing denied. Exceptions saved. In a proceeding in error the court is always limited in its consideration of the record, exclusively to the transcript and original papers or transcripts thereof, mentioned in Section 12263, General Code, a bill of exceptions being an original paper within the meaning of that section. Therefore regard cannot be had to the matters alluded to in the application for rehearing, which are not shown by the record as above defined. Wm. Klingler Charles A. Guernsey Phil M. Crow Judges.
Nov 12, 1935	Finding, judgment and decree for partition in the same proportions as in the common pleas court. Finding and decree for accounting from March 5, 1934, when the cotenancy of plaintiff, and defendants Emma M. Paxson Giles and Hudson S. Smith, arose. Remanded to common pleas court for partition, an accounting from above date, and all further proceedings. Motions of parties for a new trial overruled, and exceptions saved to them severally. Costs to abide order of confirmation of partition, or distribution of cash proceeds, proportionately. There is a presumption that the probate court performed its duty relative to issuance of citation for election, but it is not proved that the widow expressly elected to take under the will, or by failure to make an election as provided by Section 10571. The tenancy in common of testator Philip M. Smith and his wife Emma Smith, was by its very nature necessarily irreconcilable with the theory of ownership by either of any specific acreage which could be willed. 11 O. Jur. 177 et seq. Wm. Klingler Charles A. Guernsey Phil M. Crow Judges.
Nov 19 1935	Letter of Carhart, Warner and Carhart treated as an application for rehearing and as such denied. Exceptions saved. Wm. Klingler Charles A. Guernsey Phil M. Crow Judges.

Docket	Page	Case No.	STYLE	Kind	DATE	DISPOSITION
		172	Carl Coleman vs Henry J. Pfeiffer	Appeal	Sept. 22- 27, 1936	Appeal dismissed by appellant. See Journal Entry. Charles A. Guernsey Phil M. Crow. Judges.
		139	Lafayette Markley vs The Prudential Insurance Co. et al.		Feb. 4, 1937	This cause is assigned for hearing at the Court House at Lima, Ohio, on Monday, February 15, 1937 at ten o'clock A.M., on motion of The Prudential Insurance Company, one of the defendants in error herein, to dismiss petition in error herein for want of prosecution, and on application of plaintiff in error for leave to file briefs herein. And the clerk of this court having upon order of the court forwarded all papers and records filed in this cause, to the court at the Court House at Lima, Ohio, and it appearing from said papers, and records that although the judgment from which error purports to be prosecuted was entered on Sept. 24, 1932, and the petition in error bears a notation in pencil under date of Oct. 5, 1932, the transcript of docket & journal entries and the original papers in this cause were not filed in this court until Jan. 27, 1937, and neither the transcript of docket & journal entries nor the original papers show that any precept was filed in the Common Pleas Court in the time limited by law for the filing of such transcript and original papers, or at any other time, directing the clerk thereof to file the original papers in this court or directing the clerk thereof to prepare and/or file transcript of the docket and journal entries, it is ordered by this court that the plaintiff in error herein at the same time & place show cause why this cause should not be dismissed for failure to file transcript of docket and journal entries and/or original papers in this cause within seventy days from the entry of said judgement in the Common Pleas Court as provided by law. Wm. Klinger Charles A. Guernsey Phil M. Crow.
		173	John Jaster, Jr. Director of Highways vs The Union County Agricultural Society	Appeal	May 25 1937	Appeal dismissed by plaintiff at his costs. See journal entry. Charles A. Guernsey Phil M. Crow Wm. Klinger

Docket	Page	Case No.	STYLE	Kind
		139	Lafayette Markley. vs. The Prudential Insurance Company of America, et al	
		175	L. L. Allen. Plaintiff-Appellant vs. Charles Cheney & Charles Miller Defendants-Appellees	Question of Law

DATE	DISPOSITION
1937 May 26	In the above entitled action, enter the following minutes on the trial docket, as of date May 25, 1937, and at once inform all attorneys of record in said action, to wit: Settled and dismissed. See journal entry approved by Counsel and by them filed with the clerk. Charles A. Guernsey. Phil M. Crow Wm. Klingler. Judges.
July 14 1937	Find no error. Judgment affirmed at costs of appellant. Cause remanded for execution. Exceptions saved. a majority of the Court find that the verdict in this cause is sustained by competent, credible and substantial evidence and that the same is neither against the weight of the evidence nor contrary to law. without objection evidence was admitted as to the trials and the results of the trials of right of property and the transcript of such trials was merely cumulative to the evidence admitted without objection, and if the admission of the transcript was erroneous it was not, for the reason mentioned, prejudicial. There is no evidence tending to prove conspiracy on the part of Miller and Cheney and consequently the instruction of the court complained of in appellants brief was not erroneous. Crow, J., dissents on the sole ground of error in overruling the motion for a new trial on the ground that the verdict is against the weight of the evidence. Charles A. Guernsey Phil M. Crow Wm. Klingler Judges.

Docket	Page	Case No.	STYLE	Kind
174			Myrtle Waterman vs. Plaintiff Board of Township Trustees of Chabourne Twp. et al.	Appeal
178			Emily Wolfel, an infant, etc. vs. Plaintiff Board of County Commissioners of Union County, Ohio	Question of Law
180			Paul E. Arthur vs. Frances G. Arthur	Question of Law
177			Willard Hill vs. Appellant The General Baking Company Appellee (See page 57)	Law & Fact

DATE	DISPOSITION
Sep. 2 1937	Finding, decree & judgment for defendants at costs of plaintiff. Motion for new trial overruled. Exceptions saved. Remanded for execution. Plaintiff's evidence fails to prove title by adverse possession in plaintiff and her predecessor in title, or otherwise. The construction of the hedge fence was not attended by any circumstances tending to prove that it was intended to be the division line between the lands of defendant and those of plaintiff's predecessor in title. Charles A. Guernsey Phil M. Crow Wm. Klingner Judges.
Dec. 7 1937	By agreement of counsel, assignment for for December 15, 1937, vacated. Charles A. Guernsey Phil M. Crow Wm. Klingner
Dec. 16 1937	Motion to dismiss appeal for want of prosecution and failure to file assignments of error, brief and/or bill of exceptions within the time limited by law sustained and appeal dismissed at costs of appellant. Exceptions saved. Charles A. Guernsey Phil M. Crow Wm. Klingner - Judges

Docket	Page	Case No.	STYLE	Kind
#182			Delmar R. Reed, Administrator of the Estate of Leah Catherine Reed, deceased, Plaintiff-Appellee vs Erie Railroad Company Defendant-Appellant.	Question of Law
#182			Delmar R. Reed, Administrator of the Estate of Leah Catherine Reed, deceased, Plaintiff Appellee vs Erie Railroad Company Defendant Appellant.	Question of Law

DATE	DISPOSITION
Feb. 25 1938	Find error in that judgment is contrary to law, it not being sustained by any evidence tending to prove negligence of defendant-appellant to be a proximate cause of the death of plaintiff's decedent, judgment reversed and final judgment entered in favor of appellant, at costs of appellee. Exceptions waived. Per curiam filed. Cause certified to the Supreme Court of Ohio for review and final determination. Charles A. Guernsey. Phil M. Crow Wm. Klinger. Judges.
Feb. 25 1938.	By the Court: This is an appeal on questions of law from a judgment of the Common Pleas Court of Union County in an action pending therein wherein the appellee Delmar R. Reed, Administrator of the Estate of Leah Catherine Reed, deceased, was plaintiff, and the appellant Erie Railroad Company was defendant. The action is one for damages for wrongful death. The cause was submitted to the court without the intervention of a jury and the court rendered a verdict in favor of plaintiff. Judgment was thereafter entered on the verdict and it is from this judgment this appeal is taken. Except as hereinafter mentioned the claimed negligence of the defendant railroad company is based on its failure to maintain a statutory crossing sign on the south side of its track at the crossing of its one track railroad over a public highway known as State Route No. 31 in the open country near Broadway, Union county, Ohio, where the collision between the automobile in which plaintiff's decedent was riding as a guest and the train operated by the defendant railroad company occurred, and in its failure to maintain other signs and signals indicating the presence of said railroad crossing in addition to the highway signs indicating the presence of said crossing on and adjacent to the metal of the highway immediately and at various distances south of said railroad track. The view from said highway northward toward said crossing and railway is for a long distance unobstructed. The collision occurred at about ten o'clock P. M. on February 27, 1935, a dark night. The automobile coupe in which plaintiff's decedent was riding was being driven in a northerly direction toward said crossing and collided with the train of defendant passing over said crossing in a southwesterly direction. The train consisted of engine, tender, sixty-nine cars and a caboose. The automobile in which plaintiff's decedent was riding was driven into the side of the forty-second car from the engine of defendant's train. It is not charged and there is no evidence that the train was going at an excessive rate of speed. The automobile was in good operating condition and had headlights in conformity to and operating in accordance with law. The only purpose of such statutory signs and other signs and signals at a railroad crossing is to notify travelers of the proximity of the railroad and warn them to be on the lookout for the approach of trains. The other claims of negligence on the part of the defendant railroad company are in operating said train over said crossing without providing any lights or other warning signals on any of said freight cars as they passed over said crossing to indicate that said train was passing over said crossing; in operating said train over said crossing without providing any watchman at said intersection to warn travelers upon said highway of the approach and presence of said train; and in failing to have crossing gates in operation at said crossing at said time. There are no statutory provisions requiring lights or other warning signals on freight cars of trains passing over highway crossings to indicate that such trains are passing over said crossings; and there are no statutory provisions requiring watchmen at railroad crossings in the open country such as the one in the case at bar to warn travelers upon the highway of the approach or presence of trains; and there is no statutory provision requiring crossing gates at a railroad crossing in the open country such as the crossing in the case at bar. There is no evidence in the case at bar tending to prove the existence of any unusual or extraordinary conditions or circumstances such as might require the defendant railroad company in the exercise of ordinary care to maintain lights or other warning signals on its said freight cars in passing over said crossing or to provide a watchman at said crossing or to have crossing gates in operation at said crossing at said time. And in the absence of such statutory provisions and such proof no inference of negligence on the part of the defendant railway arises from its omission to maintain such lights, signals, watchmen or gates. Haughn v. Detroit, Toledo & Ironton Railway Company, 25 Law Abstract, 123, -issue of Dec. 4, 1937; 29 O.J. 481, at seq. From the evidence in the case reasonable minds can reach no other conclusion than that the presence of the train of cars passing over the crossing was in and of itself ample notice of the proximity of the railroad and warning of the attendant and fully served every purpose that the presence of such statutory and other signs and signals would have served, and the failure of the driver of the automobile in which plaintiff's decedent was riding to observe at a time and place where he could bring said car to a stop and avoid the collision the presence of the train on the crossing was the proximate cause of plaintiff's decedent's death; and the negligence, if any, of the defendant in failing to maintain a statutory sign or other signs or signals at the place mentioned was not a proximate cause of plaintiff's decedent's death. The judgment in favor of plaintiff will therefore be reversed and final judgment entered for appellant at costs of appellee. The Judges of the Court of Appeals find that the judgment upon which they have agreed in this cause is in conflict with a judgment pronounced upon the same question by another Court of Appeals of the State, namely, the Court of Appeals of the Ninth District, in the case of Richter v. Wheeling & Lake Erie Railroad Company, in Cause No. 619 in the Court of Appeals of Lorain County, decided October 27, 1932, reported in Ohio Law Abstract, page 333. Guernsey, P.J., Crow and Klinger, JJ. concur. Wilbur E. Benoy, Clifton L. Caryl, for plaintiff-appellee. Guthrey & Guthrey, Foote, Bushnell, Burgess & Chandler, for defendant-appellant.

Docket	Page	Case No.	STYLE	Kind
			Emily Wolfel, an infant, by Raymond C. Wolfel her next friend, Plaintiff - Appellant vs. The Board of County Commissioners of Union County, Ohio, Defendant - appellee	
#178				
			Emily Wolfel, an infant, etc vs. The Board of County Commissioners of Union County, Ohio	
#178				
			Clifton L. Caryl, Guardian, etc Appellee vs. Jacob Scheiderer, et al. Appellant	
185				
			George Bump, Plaintiff - Appellee vs. The Village of Richwood, Ohio, a municipal corporation, et al. Defendants - Appellants	
179				

DATE	DISPOSITION
Mar 23 1938	Find no error. Judgment affirmed at costs of appellant. Cause remanded for execution. Exceptions saved. Per curiam filed. Charles A. Guernsey Phil M. Crow Wm Klinger
Apr 5 1938	Application for rehearing denied. Exceptions saved.
June 2 1938	Motion of appellee to dismiss appeal on ground that it was not perfected within the time limited by law overruled. Exceptions saved. The final order from which the appeal is taken was entered March 29, 1938, and as shown by endorsement of filing by Clerk of Courts on the cover of notice of appeal and also by transcript of docket and journal entries the notice of appeal was filed in the Common Pleas Court on April 18, 1938, being within the period limited by law. Charles A. Guernsey Phil M. Crow Wm Klinger
June 14, 1938	Find no error. Judgment affirmed on reasoning of the opinion in the case in the Common Pleas Courts, at costs of appellants. Cause remanded for execution. Exceptions saved. Charles A. Guernsey Phil M. Crow Wm Klinger Judges

Same finding, order, judgment and decree as in Common Pleas Court except that all costs are adjudged against defendants. Motion for new trial overruled. Exceptions saved.

Charles A. Guernsey
Phil M. Grow
Wm Klenger

Docket	Page	Case No.	STYLE	Kind
185			Clifton L. Caryl, as Guardian of Ebenett L. C. Scheiderer an incompetent person, Plaintiff-Appellee vs. Jacob Scheiderer, Defendant-Appellant	
187			Eldon Bump, Plaintiff vs. H. S. Prosser, Sheriff of Union County, Ohio Defendant	
188			M. V. Moore and Gerald Henriott, doing business as The M. & H. Novelty Co. Plaintiff vs. H. S. Prosser, Sheriff of Union County, Ohio Defendant	
186			Edwin S. Diehl, Plaintiff vs. C. F. Miller, Defendant	
190			Fred Gabriel, Adm. of the Estate of Ella S. Blue, deceased, Plaintiff, vs. Harry G. Southard, et al. Defendant	
189			In the Matter of the Estate of Ella S. Blue deceased, Ottie M. Amrine, et al. Appellants vs. Fred Gabriel, Administrator of the Estate of Ella S. Blue, deceased, Appellee	

DATE	DISPOSITION
July 26 1938	Find no error. Judgment affirmed at costs of Appellant. Cause remanded for execution. Exceptions saved. Opinion Filed. Charles A. Guernsey Phil M. Crow Wm Klinger Judges
Nov. 22 1938	This Court sua sponte sets aside, vacates and dismisses temporary injunction heretofore granted herein and dismisses this cause for the reason that it does not have jurisdiction of the subject matter. Costs assessed against plaintiff. Exceptions saved. Article 4, Section 6, Constitution of Ohio. Charles A. Guernsey Phil M. Crow Wm Klinger, Judges
Nov. 22 1938	Motion to dismiss cause for the reason that this court does not have jurisdiction of the subject matter, allowed. Cause and petition dismissed at costs of plaintiff. Exceptions saved. Charles A. Guernsey Phil M. Crow Wm Klinger, Judges
Mar. 8 1939	Find error in overruling motion for new trial on the ground that the verdict is against the weight of the evidence. Judgment reversed at costs of Appellee and cause remanded for a new trial and further proceedings according to law. Exceptions saved. Phil M. Crow Wm Klinger Charles A. Guernsey
Apr. 6 1939	Find error in that the judgment is contrary to law, not being sustained by any evidence; judgment reversed and final judgment entered for the heirs of Louis F. Blue, at costs of appellees; remanded for execution, exceptions saved. Opinion filed. Phil M. Crow Wm Klinger Charles A. Guernsey - Judges
Apr. 15 39	Find no error. Judgment affirmed at costs of appellants. Cause remanded for Execution. Exceptions saved. Opinion filed. Phil M. Crow Wm Klinger Charles A. Guernsey, Judges

Docket	Page	Case No.	STYLE	Kind
191			Roy A. Mount, et al. Plaintiffs-Appellants vs. Carl P. Beaty, et al. Defendants-Appellees	
192			Eleanor Detwiler Plaintiff Appellee vs. Village of Richwood, Ohio Defendant Appellant	

DATE	DISPOSITION
June 13 1939	Find no reversible error. Judgment affirmed at costs of appellants. Remanded for execution. Exceptions saved. On consideration of the record in its entirety it is apparent that the action of the court in dismissing the petition was based on the want of jurisdiction of the subject of the action and hence Section 11268, Paragraph 1, General Code, was applicable inasmuch as the gist of the action pleaded by the petition was recovery of the real estate situated in Franklin County, Ohio, 86 O.S. 199, 203. All other issues under any of the pleadings were dependent on and incident to such gist. Klinger, J., dissents.
	Phil M. Crow Wm. Klinger Charles A. Guernsey Judges
Jan. 15 1940	Find error to the prejudice of defendant, appellant in the admission of evidence tending to prove damages by reason of the existence of the water tower, and in the charge that such presence could be considered as a basis of recovery, there being no evidence that the claimed nuisance was permanent, and all the evidence tending to show otherwise. Reversal of the Law of Torts, Volume 4, page 660. 30 O.J. page 415, et seq. However, the evidence is sufficient on the issue of past damages suffered by plaintiff to her person, her personal property and her real estate in the aggregate, seem of one hundred dollars. If plaintiff will within ten days from the entry of this judgment, file consent in writing to a remittiture of the judgment to one hundred dollars, the judgment will be affirmed at costs of defendant, appellant; otherwise the judgment will be reversed at costs of plaintiff, appellee in this court, the verdict set aside and a new trial awarded and the cause remanded for execution, new trial and further proceedings according to law. Exceptions saved to parties severally.
	Phil M. Crow Wm. Klinger Charles A. Guernsey Judges

Docket	Page	Case No.	STYLE	Kind
			Rolly Hoyle Plaintiff - Error	Error.
133			vs Ernest Moore Defendant in Error	
			The State of Ohio Plaintiff Appellant	Law.
195			vs Samuel B. Soane Defendant Appellee	
			H. Ray VanAtte Plaintiff Appellant	
193			vs Sarah Angelina Van Atte Defendant Appellant	

DATE	DISPOSITION
Nov. 1, 1940	Motion for defendant in error for order permitting minutes on trial docket of the decision in the above entitled cause, under date of January 28, 1933, to be journalized, granted; and motion for order permitting said journal entry to be filed none protene as of January 28, 1933, overruled, at cost of defendant in error. Exceptions saved. Opinion filed Phil M. Crow Wm. Klinger Charles A. Kuermeier.
Apr. 25, 1940	Appeal dismissed by appellant at his cost, pursuant to journal entry approved by his counsel and filed with the clerk. Phil M. Crow Charles A. Kuermeier.
Apr. 30, 1940	Find no error. Judgment affirmed at cost of appellant on reasoning in opinion of Common Pleas Court herein and in opinion in the case of Seal v. Trech, et al., 282 Illinois, 167; 118 N.E. 422. Cause remanded for execution. Exceptions saved. Reasonable ground existed for the appeal Phil M. Crow Wm. Klinger Charles A. Kuermeier Judges.

Docket	Page	Case No.	STYLE	Kind
		194	Julia Benz, Plaintiff-Appellee - US - Emery E. Buttz, Adm., etc., Defendant-Appellant	Question of Law.
		194	Julia Benz, Plaintiff-Appellee. - US - Emery E. Buttz, Adm., etc. Defendant, Appellant.	

DATE	DISPOSITION
9 July '40	Guiding by all three judges that there is error in that the verdict and judgment of the common pleas court are against the weight of the evidence insofar as they exceed the sum of one thousand dollars, but Judge Crow holds that the verdict and judgment are against the weight of the evidence generally and would reverse the judgment on that ground and remand the case for a new trial. It is therefore, adjudged by the Court, only Judges Klinger & Gurnsey concurring, that if the plaintiff will, within ten days after the announcement of this decision, file a remittitur herein remitting all that part of the judgment in excess of one thousand dollars the judgment will be modified accordingly, and as modified, affirmed, at costs of appellee. If such remittitur is not filed within the period mentioned, the judgment will be reversed at costs of appellant, as being against the weight of the evidence, and the cause remanded for a new trial and further proceedings according to law, all the judges concurring in such reversal and remanding. Exceptions saved. Phil. M. Crow Wm. Klinger, Charles A. Gurnsey.
6 Aug. '40	Application for rehearing denied. Exceptions saved. The record, including the bill of exceptions, received the utmost consideration of all three members of the Court compositionally on all points argued in the brief of appellant, including especially the contentions that the verdict was not sustained by any evidence upon certain essentials and that it was against the weight of the evidence generally, that is to say, it was not sustained by sufficient evidence; and the result of that full consideration was that the Court unanimously found that the full amount of the verdict was not sustained by sufficient evidence, but that plaintiff proved a prima facie case not against the weight of evidence for an amount less than the verdict, namely \$1000. Wherefore a reargument would be unavailing. Judges - Charles Gurnsey, Phil M. Crow, Wm. Klinger.

Docket	Page	Case No.	STYLE	Kind	DATE	DISPOSITION
		196	Eldon Beump. Plaintiff-Appellant vs H. S. Koosa, et al. Defendants-Appellees	Question of Law	Mar. 28, 1941	Motion to dismiss appeal granted and appeal dismissed for the reason that the plaintiff-appellant, without excuse therefor, has failed to file his assignments of error and briefs herein within the time limited by statute and the rules of the Courts of Appeals. Wm. Klinger Charles A. Guernsey Phil M. Crow Judges.
		197	Lucille Pitt, Administratrix of the Estate of Laurence R. Pitt, deceased. Plaintiff-Appellant vs Charles J. Nichols Defendant-Appellee	Question of Law	Mar 28 1941	Find error in that judgment is contrary to law. Judgment reversed at costs of appellee and cause remanded for a new trial and further proceedings according to law. Exceptions saved. Opinion filed Wm. Klinger Charles A. Guernsey Phil M. Crow Judges.
		198	Harry Barger, Plaintiff-Appellant - vs - The Pennsylvania Railroad Co. Defendant-Appellee	Questions of Law.	June 23 1941	Find no reversible error. Judgment affirmed at costs of appellant. Cause remanded for execution. Exceptions saved. Reasonable ground existed for the appeal. Opinion of Klinger, P.J. filed. Crow, J., concurs in the judgment of affirmance for the reason that the record fails to show reversible error in any assignment of error as argued in the brief of appellant. Section 12223-21 General Code, 3 American Jurisprudence, 332. Guernsey, J., dissents. Dissenting opinion filed. Wm. J. Klinger Charles A. Guernsey Phil M. Crow Judges.

Docket	Page	Case No.	STYLE	Kind
		198	Harry Barger. - Plaintiff - Appellee - vs - Pennsylvania R. R. Co. - Defendant Appellant	Question of Law.
		199	George Nakes, Administrator Plaintiff - vs - The New York Central R. R. Defendant	
		200	Union Banking Company Plaintiff - vs - Herbert Shidmore, et al. Defendants	
		201	Wycl A. Vance Plaintiff - vs - Charles A. McNeil, et al., Defendants	

DATE	DISPOSITION
	Application of Defendant (appellant) for rehearing not considered because not made within ten days after the decision was announced, as required by Rule 11. Rules of practice, 50 Ohio Appellate Reports, 1111. Wm. Klinger, Charles A. Guernsey, Phil M. Crow.
	Find no reversible error in any particular pointed out in brief of appellant. Judgment affirmed at costs of appellant. Remanded for execution. Exceptions saved. Guernsey, J., dissents, being of the opinion that the giving of defendant's first request to charge before argument was prejudicially erroneous, in consequence of which the judgment should be reversed and the cause remanded for new trial. Reasonable ground existed for the appeal. Wm. Klinger Charles A. Guernsey Phil M. Crow Judges.
	By agreement of counsel, cause to be tried at Lima, Ohio, on Tuesday, July 14, 1942, ten o'clock A. M., instead of at Marysville. William Klinger Charles A. Guernsey Phil M. Crow
	By agreement of counsel, cause to be tried at Lima, Ohio on Tuesday, July 14, 1942, ten o'clock A. M., instead of at Marysville. William Klinger Charles A. Guernsey Phil M. Crow.

Docket	Page	Case No.	STYLE	Kind
		201	Hazel A. Vance, Plaintiff -vs- Charles A. McNeil, et al Defendants	
		200	Union Banking Company Plaintiff -vs- Herbert Skidmore, et al Defendants	

DATE	DISPOSITION
July 15, 1942	Appeal dismissed by appellant at his costs. Journal Entry to be approved by counsel and by them filed with the clerk. Wm. Klinger Charles A. Guernsey Phil M. Crow
July 15, 1942	The agreed statement of facts, upon which this cause was submitted, discloses the real estate in controversy consists of three tracts of land containing approximately 73 acres, located in Union and Logan Counties, Ohio, and two of these tracts located in Union county, Ohio, and containing 6 and 22.25 acres, respectively, were conveyed by the Auditor of Union County, pursuant to delinquent tax sales, to Charles H. Wiltzie, and the other tract located in Logan County, Ohio, and containing 42.03 acres, was conveyed to Charles H. Wiltzie by the Auditor of Logan County, pursuant to delinquent tax sale, and the instruments of conveyance properly recorded. The agreed statement further discloses that Charles H. Wiltzie and Harriet H. Wiltzie, his wife, by quit claim deed dated March 27, 1922, conveyed the 6 acre tract and the 22.25 acre tract located in Union County to A. W. Skidmore, and the instruments of conveyance was properly recorded. The agreed statement further shows a copy of a letter under date of May 19, 1919, from C. H. Wiltzie to Mr. Aaron H. Skidmore in which Wiltzie acknowledges receiving \$75.00 in payment for tax deed and claim which he held against the 42.03 acre tract in Logan County, Ohio, and in which he states that he is inclosing quit claim deed made in the name of Aaron H. Skidmore as grantee. However, the agreed statement does not show any copy of this quit claim deed, or that it has been recorded. The recording of this deed and if recorded the date of record, are facts which may be material to the determination of the issues in this case, which appear to have been inadvertently omitted from the agreed statement. It is therefore suggested that counsel file herein, within ten days after the announcement hereof, an amendment to the agreed statement of facts setting forth a copy of such quit claim

DATE	DISPOSITION
	dud if the same is in existence, and if recorded, the date of recording and the volume and page of the record; or if such dud is not in existence or has not been recorded, stating such facts. In this case will be considered and decided upon the agreed statement of facts filed herein as it now appears. Wm. Klinges Chas. A. Guernsey Phil M. Crow
Aug. 17-42	Findings, judgment and decree the same as in the Court of Common Pleas. Motion for new trial overruled. Exceptions saved. The pleadings herein do not allege, and the agreed statement of facts does not show, any irregularity or defect in the tax sales or tax deeds through which Charles H. Wiltzie derived his title to the premises in controversy herein, and so far as the record shows, the same were in all respects regular and vested title in fee simple absolute in the said Charles H. Wiltzie. By these tax sales and conveyances the record title of Calvin Skidmore to said premises was extinguished and Wiltzie acquired a new title thereto from the State. The pleadings do not allege, and the agreed statement of facts does not show, any irregularity or defect in the conveyances of said premises made by Charles H. Wiltzie to Aaron Skidmore, and such conveyances are in such form as to vest title in fee simple absolute in said premises in the said Aaron Skidmore. All of the above mentioned conveyances were of record when Aaron Skidmore made a trust deed for said premises to the Division of Aid for Aged occupies the position of a bona fide purchaser for value without notice, of the premises in controversy to the extent of its claim secured by said trust deed, and the title held by it under said trust deed is therefore superior to the title of the persons basing their claims

Docket	Page	Case No.	STYLE	Kind
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202

The Rookwood Oil Terminals, Inc.
Plaintiff - Appellee

vs
Clarence Edwards
Miss Mary M. Fisher

Defendants-Appellants

DATE

DISPOSITION

Find no error. Judgment affirmed at costs of appellant. Cause remanded for execution. Exception saved. Reasonable ground existed for the appeal. Appellants' sole assignment of error in this case is that the verdict and judgment against Mary M. Fisher are contrary to law in that there is no evidence tending to prove that the defendant Mary M. Fisher was either a part owner of Independent Oil Company, or by her acts and conduct had held herself out as such to the Rookwood Oil Terminals, Inc., in such a manner as to become liable for the indebtedness of said company to Rookwood Oil Terminals, Inc., which is the subject-matter of this action. There is evidence tending to prove that commencing approximately in the year 1936 and continuing until February, 1942, the defendant Mary M. Fisher signed in blank, all checks on the bank account of Independent Oil Company at the Citizens National Bank at London, Ohio; that these checks were signed "Independent Oil Company, By Mary M. Fisher"; that between the dates mentioned, the plaintiff Rookwood Oil Terminals, Inc., made numerous sales of merchandise to Independent Oil Company and received checks, as above set forth, in payment for such merchandise; that she signed these checks at the request of Clarence Edwards who was the proprietor of Independent Oil Company; that she happened to do it for the reason, as expressed by her, that he became obligated, I suppose, in a business way; that said checks were filled out by Clarence Edwards and she did not know the respective amounts thereof or to whom they were made payable; and that although she claimed the only work she did for the Independent Oil Company was the signing of checks as aforesaid and some notarial work and the making of some reports, she, in the absence of Edwards, upon Plaintiff demanding payment from her of the indebtedness owing by Independent Oil Company to the plaintiff, promised to collect funds of the company for the purpose of paying same, and went from her home in Marysville to London, Ohio, for the purpose of collecting funds belonging to Independent Oil Company, to pay such indebtedness, and, in the absence of Edwards, did collect some funds of the company for which she secured a cashier's check but failed to apply the same on such indebtedness and left the same with a Mr. Wilson her employer at Marysville. There is further evidence tending to prove that the plaintiff, in making the sales of merchandise to Independent Oil Company, represented by the account sued on, relied upon the defendant Mary M. Fisher having such an interest therein that she would be liable for the obligations of said company. The Independent Oil Company not being a corporation, the signing of the checks by Mary M. Fisher in the manner she signed them, without designation of the authority under which she signed them and without any limitation on her apparent authority, constituted evidence tending to prove that she signed same in a proprietary capacity. As the mere signing by her of checks of Independent Oil Company would not in any way affect any obligations of Edwards or the company, unless by so doing she obligated herself for the indebtedness of the company, an inference could properly be drawn from her own explanation as to why she signed such checks in the manner she signed them, that Edwards had become obligated in such a manner as to adversely affect the credit of the company, and that she signed the checks for the purpose of holding herself out as having such an interest in the company that she would be liable for the obligations thereof and thereby overcome the adverse effect on the credit of the company arising from Edwards' obligations, the further evidence to the effect that, upon plaintiff, in the absence of Edwards, demanding payment of the indebtedness of the company to it from her and her promising to collect, and, in the absence of Edwards, exercising rights of proprietorship by collecting some of the funds of the company for this unfulfilled purpose, tends to corroborate the evidence and inference deducible therefrom, above mentioned, as to her holding herself out as having such an interest in the Independent Oil Company as to be liable for the indebtedness of the company.

The evidence mentioned tended to prove that the defendant Mary M. Fisher had represented herself as having such a proprietary interest in the company as to be liable for the obligations thereof. Other evidence, above mentioned, tended to prove the reliance of the plaintiff on such representations. And these items of evidence taken together were sufficient to charge her with liability for the indebtedness of Independent Oil Company to Rookwood Oil Terminals, Inc., which is the subject-matter of this action. 30 O. J. 1008

Charles A. Guernsey

Phil W. Crow

Walter S. Jackson

Docket	Page	Case No.	STYLE	Kind
		203	<i>L. G. Mayer</i> Plaintiff - Appellant -vs- <i>Pennsylvania R. R. Company</i> Defendant - Appellee	
		204	<i>Raymond H. Winters</i> Plaintiff - Appellee vs <i>Adrevere B. Winters</i> Plaintiff - Appellant	

DATE	DISPOSITION
Mar. 27-'43.	Find no error. Judgment affirmed at costs of appellant. Cause remanded for execution. Exceptions saved. Reasonable ground existed for the appeal. The only assignment of error is that the finding and judgment of the court is against the manifest weight of the evidence. An examination of the amended bill of exceptions shows that there is credible and substantial evidence to sustain the finding and judgment of the court and that such finding and judgment are not against the manifest weight of the evidence. Charles A. Guernsey Phil M. Crow Walter S. Jackson. Judges.
July 20-'43	Motion to dismiss appeal sustained at costs of appellant. Exceptions saved. Chas. A. Guernsey Walter S. Jackson Geo. S. Middleton.

Docket	Page	Case No.	STYLE	Kind
		205	Alex Siegel, Plaintiff - Appellant -vs- The O.M. Scott & Sons Co., et al Defendants - Appellees	
		206	Jess Grooms, Plaintiff - Appellant -vs- Lucille Dowler, et al., Defendants - Appellees	
		207	Garfield Warbs, et al., Plaintiffs - Appellant -vs- Fred Brehm, Defendant - Appellee	
		208	Thomas Forider, Plaintiff - Appellant -vs- Jefferson Bowers, et al., Defendant - Appellee	

DATE	DISPOSITION
Oct. 15, 1943.	Find no error. Judgment affirmed at costs of appellant. Cause remanded for execution. Exceptions saved. Reasonable ground existed for appeal. Opinion filed.
Dec. 14, 1944.	Appeal dismissed, as per journal entry approved in writing by counsel and filed herein.
Dec. 14, 1944	On motion of appellee to dismiss the appeal upon questions of law and fact it is determined by the court, that no appeal bond having been filed herein the case is not retriable upon the facts, and that the appeal stands as an appeal upon questions of law only; and that thirty days from entry record be fixed as the time within which the appellant may have to prepare, settle and file his bill of exceptions herein; and that fifteen days from the filing of such bill of exceptions herein be fixed as the time within which appellant shall file his assignments of error and briefs herein; and that fifteen days from the time of the filing of appellant's brief be fixed as the time within which the appellees shall file their answer briefs herein; and that five days from the time of the filing of appellees' brief be fixed as the time within which appellant shall file his reply brief herein. Exceptions saved to parties severally.
Dec. 14, 1944.	Leave granted to appellant to file his reply brief herein by December 16, 1944

Docket	Page	Case No.	STYLE	Kind
		209	The State of Ohio, Plaintiff - Appellee. - vs - Eldon Bump, Defendant - Appellant	
		208	Thomas Forider, Plaintiff - Appellant - vs - Jefferson Bowers, et al., Defendant - Appellees	
		207	Garfield Worbe, et al. Plaintiffs - Appellants vs Fred Brehm, Defendant - Appellee.	
		210	Andrew J. Callaway, Plaintiff - vs - Edith Callaway, Defendant.	

DATE	DISPOSITION
Dec 19, 1944.	Judgment affirmed at costs of appellant. Cause remanded for execution. Exceptions saved. The order appealed from is an order overruling motion of defendant-appellant to release and discharge cash bond in the sum of \$500.00 deposited by defendant in Justice Court to secure his appearance before the grand jury. There is no bill of exceptions and there is nothing in the record showing that the court erred in any way in overruling said motion.
Jan. 3, 1945.	Find no error. Judgment affirmed at costs of appellant. Cause remanded for execution. Exceptions saved. Reasonable ground existed for the appeal. The only assignment of error argued in Appellants' briefs is that the verdict of the jury, upon which the judgment was entered, is against the manifest weight of the evidence. A careful reading of the bill exceptions discloses that while there are sharp conflicts in the evidence there is substantial credible evidence to sustain the verdict of the jury, and the verdict is not manifestly against the weight of the evidence.
Apr. 27, 1945.	Find reversible error as set forth in the opinion filed herewith. Judgment of the Common Pleas Court reversed and cause remanded for further proceedings according to law. Exceptions saved. George I. Middleton Walter S. Jackson. Chas. S. Sweeney. Judges.
Aug. 14, 1945	This day the matter of the motion to certify the decision in this case to the Supreme Court of Ohio as in conflict with the judgment of the Eighth District Court of Appeals of Cuyahoga County, in the case of Inopano v. Szabo, 3 Ohio Law Abstract, 264, is overruled. Exceptions saved. Walter S. Jackson Chas. Sweeney, Judges

Docket	Page	Case No.	STYLE	Kind
		212	Edward C Radabaugh - vs. - Plaintiff-Appellant Paris Outland Defendant-appellee	
		213	In the Matter of Hattie Taylor an Incompetent.	
		211	Geo. R Nicol and Ralph S Nicol Plaintiffs-appellants - vs - Myrtle Brown et.al. Defendants-appellee	
		216	In the Matter of Hattie Taylor an Incompetent	

DATE	DISPOSITION
	Find no error. Judgment affirmed, with- out penalty, at cost of appellant. Cause remanded for execution. Reasonable ground existed for the appeal. Exceptions saved. Geo. S Middleton Walter S Jackson Charles Guernsey
	Determined that the case is not a chancery case within the meaning of section 6 of Article IV of the Con- stitution of Ohio, and is therefore not retriable upon the facts. And further determined that the appeal stands as an appeal on questions of law. No bill of exceptions having been filed, leave granted to file said bill of exceptions instantaneously. Further ordered that appellant's briefs be filed by Dec. 7, 1946; answer brief of appellee to be filed by Dec. 14, 1946 reply brief of appellant to be filed by Dec. 21, 1946 George S Middleton Walter S Jackson Chas. Guernsey.
	Motion of defendants-appellees to dismiss appeal, overruled. Exceptions saved. Motion of plaintiff-appellant Ralph S Nicol, that F. Gertrude Nicol Administratrix of estate of Geo. R. Nicol, deceased, be substituted as a party plaintiff in the place and stead of said George R Nicol, deceased, sustained George S Middleton Walter S Jackson Chas. Guernsey.
	Leave granted appellee to file answer brief instantaneously. Leave to appellant to file reply brief by Dec 7 th 1946 George S Middleton Walter S Jackson Chas. Guernsey.

Docket	Page	Case No.	STYLE	Kind
		214	Frank Callaway Plaintiff - Appellant - vs - C.A. Hooper et al Defendants - Appellees.	
		215	Frank Callaway Plaintiff - Appellant. - vs - C.A. Hooper	

DATE	DISPOSITION
Dec 20 '16	The Court sua sponte dismisses the appeal herein for the reason that the order appealed from is not a final order. Exception saved to plaintiff. Where a cause has proceeded no further than an overruling or sustaining of a demurrer leaving the action still pending, there is no final order which can be made the basis of an error proceeding. 20 J., Appeal and Error, Section 121 page 137. It is recognized that the legal consequences of the sustaining of a demurrer may result in a judgment of dismissal. But until such judgment is entered, no final order exists. Upon the entering of such a judgment a judgment exists which may be made the basis of an error proceeding. 20 J., Appeal and Error, Section 121 page 138. Geo. Middleton Walter Jackson Chas. A. Guernsey. Judges.
Dec 20 '16	The Court sua sponte dismisses the appeal herein for the reason that the order appealed from is not a final order. Exceptions saved to plaintiff. Where a cause has proceeded no further than the overruling or sustaining of a demurrer leaving the action still pending, there is no final order which can be made the basis of an error proceeding." 20 J., Appeal and Error, Section 121, page 138. It is recognized that the legal consequences of the sustaining of a demurrer may result in a judgment of dismissal. But until such judgment is entered, no final order exists. Upon the entering of such a judgment a judgment exists which may be made the basis of an error proceeding. 20 J., Appeal and Error, Sect. 121 page 138. Geo. Middleton Walter Jackson Chas. A. Guernsey. Judges.

Docket	Page	Case No.	STYLE	Kind
		211	George R Nicol et al. Plaintiffs-appellants -vs- Myrtle Brown et al. Defendants-appellees	
		218	Theodore May Jr. Plaintiff -vs- Helen P May Defendant.	
		213.	In the Matter of the Guardianship of Hattie Taylor an Incompetent Ida Curmston. Plaintiff-appellant. -vs- Sturgis H Cheney, Guardian, Defendant-appellee	

DATE	DISPOSITION
Jan 21 1941	On the issues joined, finding and judgment in favor of defendants-appellees. Petition of plaintiffs dismissed at plaintiffs costs. Cause remanded for execution. Exceptions saved. Reasonable ground existed for the appeal. George S Middleton Walter S Jackson Charles A Guernsey.
Jan 29 1941	By agreement and Consent of Counsel, the notice of appeal is hereby amended by striking therefrom the words "and fact". Further ordered that defendant be allowed thirty day for preparation and settlement of bill of exceptions journal entry approved by Counsel and the Court and filed with the Clerk. Geo. S Middleton Walter S Jackson Charles A Guernsey Judges.
Mar 18 1941	Find Prejudicial error. Judgment reversed at cost of appellee. Cause remanded for a new trial and further proceedings according to law. Exceptions saved. The contract submitted to the Court was approved by Ida Curmston, who was advised by her atty, and Sturgis H. Cheney, guardian of Hattie Taylor an Incompetent, whose appointment was made by the Probate Court, and he had the advice and counsel of his attorneys. It is presumed that the guardian made full investigation of the condition of Hattie Taylor, both financial and physical, as well as the surroundings where she lived, and the nature and extent of the care given to said Hattie Taylor by Ida Curmston. The Court failed to meet the issue as to the approval or disapproval of the contract and attempted, without any evidence to support it, to make and entirely different contract on behalf of the guardian with Ida Curmston. It appears that the court gave much weight to some litigation which was already concluded in the Common Pleas Court of Union Co. For the above reasons, the three assignments of error are sustained to-wit: 1. The Court erred in overruling the motion of Ida Curmston for a new trial. 2. The findings, orders and judgments of the Court are against the weight of the evidence. And, 3. The findings, orders and judgments of the Court are contrary to law. Walter Jackson Chas. A Guernsey Geo. S. Middleton Judges

Docket	Page	Case No.	STYLE	Kind
216			In the Matter of the Guardian of Hattie Taylor, an incompetent. Hattie Taylor. -VS- Plaintiff-appellant. Sturgis H Cheney Guardian Defendant-appellee.	
218			Theodore May, Jr. US Plaintiff Helen P May Defendant	June 12, 1947
219			Emanuel Blumenschein -VS- The Maccabees.	Aug 29, 1947
217			Bradshaw Co. Inc -VS- E. J. Van Tassel et al.	Oct. 23, 1947

DATE	DISPOSITION
Mar 18 1947.	Find no prejudicial error. Judgment of the Probate Court affirmed at costs of appellant, and cause remanded for execution. Exceptions saved. Reasonable ground existed for the appeal. Geo. S Middleton Walter S Jackson Charles A Gurney Judges.
June 12 1947	As per Journal Entry approved by Counsel and the Court, and filed with the Clerk, cause dismissed, without record, at costs of plaintiff. Walter S Jackson Charles A Gurney George S Middleton Judges.
Aug 29 1947	As per Journal Entry approved by all counsel and the Court, and filed with the Clerk have granted plaintiff appellee to withdraw from the filed his motion to dismiss the appeal. There to file herein and leave granted defendant-appellant to file assignment of errors and brief herein instant. Walter S Jackson Charles A Gurney George S Middleton
	Motion to dismiss appeal on question of law & fact sustained. Returned as an appeal on question of law. Bill of Exception, transcript of docket and Journal Entries, assignment of errors and brief of appellant to be filed in instant. Brief of appellee to be filed instant. Reply brief, if any, to be filed instant. Walter S Jackson Charles A Gurney Geo S Middleton

Docket	Page	Case No.	STYLE	Kind
		221	State of Ohio Plaintiff-Appellee, -vs- Henry Brack Defendant-Appellant.	
		217	Bradshaw Company, Inc., Plaintiff -vs- E. J. Van Tassel, et al. Defendants	
		219	Emanuel Blumenschien Plaintiff-appellee -vs- The Maccabees of Detroit Mich. Defendant-appellant.	
		217	Bradshaw Co Inc Plaintiff-Appellant. vs E J Van Tassel et al Defendants-appellees.	

DATE	DISPOSITION
Oct 28 1947	Motion for leave to appeal on questions of law, sustained. Exceptions saved. - Appellant to file bill of exceptions, assignments of error, transcript of docket and journal entries, and brief on or before November 5, 1947; appellee to file answer brief on or before November 12, 1947; and appellant to file reply brief on or before November 17, 1947. - Walter S. Jackson Chas. A. Seunsee Geo. S. Middleton, Judges.
Oct 30	Motion to dismiss appeal on questions of law and fact sustained. Retained as an appeal on questions of law. Bill of Exceptions, transcript of docket and journal entries, assignments of error and brief of appellant to be filed instant; brief of appellee to be filed instant; reply brief, if any, to be filed instant. - Walter S. Jackson Chas. A. Seunsee Geo. S. Middleton, Judges.
Nov 6 '47	Find error in judgment of the Common Pleas Court in awarding to plaintiff, as part of his damages, the amount of the premiums paid by plaintiff on the two certificates of insurance issued to him, and in awarding to defendant on its cross petition as an offset to damages awarded to plaintiff the amount of the policy loans made by defendant to plaintiff. Find no error in awarding to plaintiff, as damages, the sum of \$7750.00 the amount finally paid to defendant's agent Buchanan as the premium on proposed paid-up life certificate, which was not issued. The errors mentioned may be remedied by a modification of the judgment so the amount recovered by plaintiff against defendant is limited to and fixed at the sum of \$1780.00 with interest from May 1944 to May 23 1947, making a total for the principal sum of judgment, of \$2107.22 with interest thereon from May 23 1947 and costs incurred by plaintiff in common pleas court. Judgment modified accordingly and, as modified affirmed at costs of defendant-appellant. Exceptions saved to parties severally. Opinion filed. - Walter S. Jackson Chas. A. Seunsee Geo. S. Middleton.
Nov 20 '47	Appeal on Questions of Law. Find no error. Judgment affirmed at costs of appellant and cause remanded for execution. Exceptions saved. Reasonable grounds expected for the appeal. - Walter S. Jackson Chas. A. Seunsee Geo. S. Middleton.

Docket	Page	Case No.	STYLE	Kind
		222	Artis Wasserbach - vs - Plaintiff-Appellee Albert T. Anderson Defendant-Appellant	

		225	Frank T. Eblin - vs - J. A. King	
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		214	Frank Alloway - vs - Plaintiff-Appellant C. A. Hoopess, et al. Defendants-Appellees	
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DATE	DISPOSITION
2-11-48	Motion to dismiss appeal on law and fact sustained and retained by the Court as on law only. Ordered that bill of exceptions be filed on or before thirty days, from the filing of the entry thereof. Assignment of error and brief of appellant to be filed within fifteen days thereafter; answer brief of appellee within fifteen days thereafter; and reply brief of appellant within five days thereafter. Walter S. Jackson Charles C. Turney George S. Middleton

2-26-48	Motion to dismiss appeal on law and fact sustained and retained by the Court as on law only. Ordered that bill of exceptions be filed on or before thirty days from the filing of the entry thereof. Assignment of error and brief of appellant to be filed within fifteen days thereafter; answer brief of appellee within fifteen days thereafter; and reply brief of appellant within five days thereafter.
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3/19/48	The order denying the change of venue, as is contained in the entry filed in the Court of Common Pleas of Union County, Ohio, August 12, 1947, and the overruling of the motion for new trial based upon said order, filed September 6, 1947, in the Court of Common Pleas of Union County, are not such orders as are appealable. The appeal is therefore dismissed, at costs of plaintiff-appellant, and the cause remanded to the Court of Common Pleas for execution. Exceptions saved. Reasonable grounds existed for the appeal. Walter S. Jackson, Charles C. Turney, George S. Middleton Judges
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Docket	Page	Case No.	STYLE	Kind
		221	<i>The State of Ohio</i> Plaintiff-Appellee, —vs— <i>Henry Beach</i> Defendant-Appellant.	
		224	<i>L. H. Collins,</i> Plaintiff-appellant, —vs— <i>E. J. Ballinger,</i> Defendant-appellee.	
		225	<i>Frank T. Eblin, et al.,</i> Plaintiffs-appellees, —vs— <i>J. A. King,</i> Defendant-Appellant.	
		223	<i>In the Matter of the</i> <i>Estate of Mary M. Blain,</i> Decedent.	
		221	<i>State of Ohio</i> Plaintiff-Appellee —vs— <i>Henry Beach</i> Defendant Appellant	

DATE	DISPOSITION
Apr. 13 1948	Leave granted to Defendant-Appellant to file complete certified transcript of the record of the Common Pleas Court, as prescribed in Section 13459-2, General Code, and as required by the provisions of Section 13459-3, General Code, by ten o'clock A.M., Thursday, April 15, 1948. In case such transcript is not filed within the period for which leave is granted, motion of Plaintiff-Appeller to dismiss appeal will be sustained and the appeal dismissed, at the costs of Defendant-Appellant. In case such transcript is filed within the time limited, motion of plaintiff-appellee to dismiss appeal will be overruled. For the purpose of determining when bill of exceptions was filed in the trial court said cause will be heard by this court at the Court House at Mansville, Ohio, on Thursday, April 15, 1948, at ten o'clock A.M. Walter S. Jackson Charles C. Guernsey, Judges.
Apr. 15	Motion of defendant-appeller to dismiss appeal on law and fact sustained and retained by the court as one on law only. Exceptions saved. Walter S. Jackson, Charles C. Guernsey, George T. Middleton Judges.
Apr. 15	Motion to dismiss appeal for the reason that journal entry was not filed, in accordance with Rule VIII of the Rules of Practice of the Courts of Appeals of Ohio, overruled. Exceptions saved. Walter S. Jackson Charles C. Guernsey George T. Middleton
Apr. 19	Settled and dismissed at costs of appellant. Journal Entry approved by all counsel and filed with the Clerk. Walter S. Jackson, Presiding Judge.
Apr. 23	It appears from the record presented for review in this case that the motion for a new trial was overruled, and the overruling thereof and judgment of conviction and sentence entered on the journal of the common Pleas Court on Sept. 6, 1947, and that the written instrument purporting to be a bill of Exceptions was not filed in the common Pleas Court until October 8, 1947, and not within the 30 days from the overruling of the motion for new trial, as mandatorily pre- (over)

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DATE
1948.

DISPOSITION

scribed by Sec. 13445-1, General Code, (formerly Sec. 13680, General Code.)

The Bill of Exceptions not having been filed in the Common Pleas Court within the time prescribed by Sec. 13445-1, General Code, is not available to, and may not be considered by, this Court on the appeal from the Common Pleas Court. *Luff v. State*, 112 O.S. 102

Upon the record for review in this case, disregarding said purported bill of Exceptions, we find no error. The judgment is therefore affirmed at the costs of appellant, and the cause remanded for execution.

Exceptions saved to appellant.

Walter S. Jackson
Charles C. Lummery
George T. Middleton
Judges

May 13

Find no error. Judgment affirmed at costs of appellant. Cause remanded for execution. Exceptions saved. Reasonable grounds existed for the appeal.

Walter S. Jackson
Charles C. Lummery
George T. Middleton
Judges

May 20

The judgment of the Court of Common Pleas is reversed for the reason that the judgment is contrary to law, at costs of plaintiff-appellee. Cause remanded to the Court of Common Pleas for further proceedings according to law. The testimony of the plaintiff-appellee clearly indicates a violation of Sec. 16307-21 of the exceptions heretofore defined by the courts. Therefore the plaintiff-appellee committed such negligence as to bar any recovery on his part.

Walter S. Jackson
Charles C. Lummery
George T. Middleton
Judges

Find no prejudicial error. Judgment affirmed at costs of Appellant. Cause remanded for execution. Exceptions saved. - Reasonable ground existed for the appeal.

Walter S. Jackson
Charles C. Lummery
George T. Middleton
Judges

Docket	Page	Case No.	STYLE	Kind
		227	W ^m Clayton Smith, a minor, etc., Plaintiff-Appellee vs. Everett Eddy, et al. Defendants-Appellants.	
		226	In the matter of the Guardianship of Minnie Schelton. Marion L. Bente, Idm. vs. Milo L. Myers, Idm. ad litem	
		227	William Clayton Smith, Plaintiff-Appellee. vs. Everett Eddy and Fondabelle Eddy, Defendants-Appellants.	

DATE	DISPOSITION
12/3/48	Leave granted defendant-appellants to file their assignments of error and brief herein on or before Dec. 11, 1948; leave to plaintiff-appellee to file answer brief on or before Dec. 18, 1948; and leave to defendants-appellants to file reply brief on or before Dec. 21, 1948. Walter S. Jackson Presiding Judge.
12/3/48	Appeal on questions of law and fact dismissed by Court, sua sponte. Cause retained as an appeal on questions of law. Exceptions saved. Walter S. Jackson Presiding Judge.
1/21/49.	Find error in the ruling by the Common Pleas Court, of the motion of defendants for new trial, based upon the ground that the verdict is against the manifest weight of the evidence. For this error the judgment is reversed, at the costs of the appellee, and the cause remanded for a new trial and further proceedings according to law. Exceptions saved. This is an action for damages for alienation of affections, brought by a husband, a minor, against the parents of the wife who is also a minor. In order to recover in this action the burden was upon the plaintiff to prove that the acts he charged the defendants with committing, were done wilfully and maliciously and caused the affections of the wife to be alienated from her husband. If this was an action for false arrest, malice might be inferred from the actions of the parents of the wife, in conjunction with the wife, in causing the arrest of the plaintiff, but in an action such as this for damages for alienation of affections by the husband against the parents of the wife, because of the rights arising out of relationship between the parents and the wife, an inference might equally be drawn that the parents acted without malice in the honest belief that such actions on their part were necessary for the protection of the wife, their child, and there is no evidence to rebut this inference. There is no evidence of any other acts on the part of the parents from which an inference of malice on their part could be drawn or which would tend to cause the wife's affections to be alienated. Even if it is assumed that the acts of the parents in causing plaintiff's arrest were malicious, upon the evidence adduced it is entirely conjectural as to whether

Docket	Page	Case No.	STYLE	Kind
		226	In the Matter of the Guardianship of Minnie Schertzer, an incompetent. Marion L. Winter, Guardian Plaintiff-Appellant. vs. Wm. L. Myers, Guardian ad litem, Defendant-Appellee.	
		229	Earnest A. McCreary, Plaintiff-Appellant. - vs - Francis Forsythe, Defendant-Appellee.	
		228	Robert Hickman, et al., Plaintiffs-Appellants. - vs - George T. Woods, et al., Defendants-Appellees.	
		231	Vina Davis, Plaintiff-Appellee - vs - Herbert Schryer, Defendant-Appellant.	

DATE	DISPOSITION
	such acts caused the affections of the wife to be alienated. This being the case, the verdict is favor of the plaintiff, and the judgment rendered thereon, as against the manifest weight of the evidence on the issue of malice, requiring the reversal of the judgment. Walter S. Jackson Charles A. Guernsey George T. Middleton, Judges.
Feb 5, '49	Find error in that the court failed to give consideration with respect to the corpus of the estate, in the allowance of compensation to the guardian. Judgment reversed, at costs of appellee. Cause remanded to the Probate Court for further proceedings according to law. Exceptions saved. See opinion filed herewith. Walter S. Jackson. Charles A. Guernsey, Geo. T. Middleton, Judges.
May 11 '49	Motion of Plaintiff-appellee to dismiss appeal on questions of fact, sustained. Cause retained as an appeal on questions of law only. Ordered that Plaintiff-appellant prepare, settle and file his bill of exceptions herein, together with his assignments of error and brief, within thirty days of the date of the filing of journal entry hereof. Journal entry approved by all counsel and the court and filed with the Clerk. Charles A. Guernsey. George T. Middleton. Walter S. Jackson. Judges.
June 27 '49	Upon motion of defendants and for good cause shown, appeal dismissed without record, and costs paid. Journal entry approved by all counsel and the court, and filed with the clerk. Charles A. Guernsey. Presiding Judge.
Aug 4 '49	Cause settled, appeal dismissed and costs paid. Journal entry approved by all counsel and the court and filed with the Clerk. Charles A. Guernsey. George T. Middleton. Walter S. Jackson. Judges.

Docket	Page	Case No.	STYLE	Kind
		229.	Earnest A. McCreary. Plaintiff. -vs- Francis Forsythe. Defendant.	
		230.	Jennie Gibson. Plaintiff-Appellant. -vs- Clark N. Evans. Defendant-Appellee.	
		214.	Frank Calloway. Plaintiff-Appellant. -vs- C. A. Hooper, et al., Defendants-Appellees.	
		215.	Frank Calloway. Plaintiff-Appellant. -vs.- C. A. Hooper, et al. Defendant-Appellees.	
		214.	Frank Calloway. Plaintiff-Appellant. -vs- C. A. Hooper, et al. Defendants-Appellees.	

DATE	DISPOSITION
Oct. 24, 49	Submitted on motion of Appellee to dismiss appeal. Oral argument waived. Each of the parties to file his brief hereon in motion to dismiss appeal by November 5, 1949. Charles A. Guernsey. Presiding Judge.
Oct. 24, 49.	By agreement of parties, cause submitted without oral argument, on briefs to be filed as follows: Brief of Appellant by November 5, 1949; brief of appellee by November 19, 1949; and reply brief of appellant by November 26, 1949. Charles A. Guernsey. Presiding Judge.
Dec. 13, 49	Application for rehearing denied. Exceptions saved. Charles A. Guernsey. George S. Middleton. Walter S. Jackson. Judges.
Dec. 13, 49.	Application for rehearing denied. Exceptions saved. Charles A. Guernsey. George S. Middleton. Walter S. Jackson. Judges.
Nov. 23, 49	Find no error. Judgment affirmed, at costs of appellant. Cause Reasonable ground existed for the appeal. The amended petition of plaintiff, which was dismissed upon the sustaining of the demurrer of the defendants C. A. Hooper, Andrew Calloway and Aeneas Calloway, did not state a cause of action for the following reasons: - 1. The petition does not contain any allegation that the deed referred to in the second paragraph thereof, became legally effective by delivery, or otherwise, to vest title in plaintiff 2. In the fourth paragraph thereof, the petition contains an allegation to the effect that the plaintiff paid \$10.40 premium to <u>renew</u> the insurance on the house on said premises. As, under the allegations of the petition, the heirs of Robert Calloway, deceased, were the owners of the premises in question immediately prior to the time plaintiff alleges the deed therefor was executed to him, a renewal of the insurance previously existing on said premises was necessarily in the names of the prior owners as the insured, so that the proceeds of the insurance under

Court of Appeals Docket

Docket	Page	Case No.	STYLE	Kind	DATE	DISPOSITION
						said renewal would be payable to them, and plaintiff's interest in the proceeds thereof would necessarily be limited to such interest as he might have by reason of his being one of the heirs to said real estate. Under the allegations of the petition, the payment of the renewal premium by plaintiff was purely voluntary on his part. 3. While plaintiff alleges the defendants conspired to fraudulently obtain possession of said insurance policy, and did obtain possession thereof, he does not allege any acts or representations of the defendants which were fraudulent in character. Charles A. Guernsey. George S. Middleton. Walter S. Jackson. Judges.
	215.	Frank Calloway. Plaintiff - Appellant.			Nov. 23, 49	Find no error. Judgment affirmed, at costs of appellant. Cause remanded for execution. Exceptions saved. Reasonable ground existed for appeal. The amended petition of plaintiff, which was dismissed by the court upon sustaining the general demurrer of the defendants, C. A. Hoopes, Andrew Calloway and Aeneas Calloway, did not state a cause of action for the following reason:- The Allegations of the amended petition affirmatively show that the Court of Appeals, in an action in partition in which all the heirs of Robert Calloway, including all the persons whom plaintiff alleges joined in the deed to him of the premises in question, and the plaintiff, were parties, and the premises in question were the subject-matter of the action set aside and held for naught, the deed under which the plaintiff in this action alleges he derived his title upon which he bases his action. The deed being set aside and held for naught by a court of competent jurisdiction in a case involving the parties and subject-matter mentioned, plaintiff is precluded from asserting title to said premises under said deed in the instant case, the allegations of his petition showing he has no title. Charles A. Guernsey. George S. Middleton. Walter S. Jackson. Judges.
		- vs - C. A. Hoopes et al., Defendants - Appellees.				

Docket	Page	Case No.	STYLE	Kind
		232.	David Dayton, an Infant etc., Plaintiff - Appellant. -vs- Orville Davidson, Defendant - Appellee.	
		229.	Ernest A. McCreary, Plaintiff - Appellant. -vs- Francis Forsythe Defendant - Appellee.	
		230	Jennie Gibson, Plaintiff - Appellant. -vs- Clark N. Evans, Defendant Appellee.	

DATE	DISPOSITION
Dec. 15 '49	Find no error, judgment affirmed at costs of plaintiff-appellant. Cause remanded for execution, Exceptions saved. Reasonable ground existed for appeal. Upon the facts in evidence the court correctly instructed the jury: - When defendant discovered that plaintiff was in the act of stealing his property and knew it, then the defendant had the right to use sufficient force to repel him and ^{prevent him from stealing the same taking care however} that the force used by him did not exceed what reasonably appeared to be necessary for the purpose of preventing plaintiff from stealing the same. Esterly v. Goodman, 7 Ohio Law Abstract, 420. Ohio Jur., Volume 3, Page 216. The Court properly refused defendant's motion for a directed verdict at conclusion of plaintiff's evidence, and properly refused to grant defendant's special request to charge No. 1, for the reason that it was the function of the jury and not the function of the Court to determine whether the force used by the defendant to repel and prevent plaintiff from stealing his property did not exceed what reasonably appeared to be necessary for the purpose. The verdict and judgment in favor of defendant are neither against the weight of the evidence nor contrary to law. Charles A. Guernsey. George B. Middleton. Walter B. Jackson. Judges.
Feb. 4, '50	Motion of defendant-appellee to dismiss appeal, sustained. Exceptions saved. Charles A. Guernsey. George B. Middleton. Walter B. Jackson. Judges.
Mar. 7, '50	It is ordered by the court sua sponte that unless plaintiff-appellant files her assignments of error and brief herein within ten days from the date of this order is filed with clerk of Courts, that this cause will be dismissed at the costs of the appellant, for want of prosecution. Charles A. Guernsey. George B. Middleton. Walter B. Jackson. Judges.

Docket	Page	Case No.	STYLE	Kind
		230	Jennie Gibson, Plaintiff - Appellant. - vs - Clark N. Evans, Defendant - Appellee.	
		233.	Frances K. Thorpe, et al., Plaintiffs - Appellees. - vs - Welfare Finance Company, Defendant - Appellant.	
		234	Giles M. Daniel Plaintiff - Appellee. - vs - Frank M. Daniel, Defendant Appellant.	
		234.	Giles M. Daniel. Plaintiff - Appellee. - vs - Frank M. Daniel Defendant - Appellee.	

DATE	DISPOSITION
Mar. 23 '50	Plaintiff - Appellant having failed to file her assignments of error and brief herein within the time fixed by the court in its order made and issued and filed with the Clerk of Courts under date of March 7, 1950, - the appeal herein is dismissed, at costs of plaintiff - appellant, for want of prosecution. Charles A. Guernsey. George S. Middleton. Walter S. Jackson. Judges.
Apr. 4 '50	Upon motion of defendant - Appellant, cause dismissed, as per journal entry approved by all counsel and the court and filed with the clerk. Charles A. Guernsey. George S. Middleton. Walter S. Jackson. - Judges. -
May 12 '50	Find error in overruling defendant's motion made at the conclusion of Plaintiff's case, to withdraw the case from the consideration of the jury and to render a verdict in favor of the defendant. Further find error as set forth in appellant's assignments of error Nos. 2, 3, 4, 5 and 6. Assignments of error Nos. 7, 8, 9 and 10, not being argued orally or by brief, are disregarded. Judgment reversed, at costs of defendant - appellant, and this court, rendering the judgment the Common Pleas Court should have rendered, sustains the motion of the defendant to direct a verdict in defendant's favor, and enters final judgment in favor of defendant. Cause remanded for execution. Exceptions waived. Opinion filed. Charles A. Guernsey. George S. Middleton. Walter S. Jackson. Judges.
May 31 '50	Minutes of decision of this court under date of May 12, 1950, determined to be erroneous in that costs on reversal of judgment are assessed against defendant - appellant, instead of plaintiff - appellee. Minutes corrected so as to show that such costs are assessed against plaintiff - appellee. Charles A. Guernsey. George S. Middleton. Walter S. Jackson. - Judges. -

Docket	Page	Case No.	STYLE	Kind
		236.	Leah M. Carich, et al., Plaintiffs - Appellees, - vs - Nellie Phelps, et al., Defendants - Appellants.	
		237.	George Kumbo, Plaintiff - Appellant, - vs - C. R. Baker, Defendant - Appellee.	
		240.	Willard Clevenger, Plaintiff - Appellee - vs - L. R. Amrine, Defendant - Appellant.	
		241.	Catherine E. Hennessy, Plaintiff - Appellee, - vs - J. Warren Moreland, Defendant - Appellant.	

DATE	DISPOSITION
Jan. 24 '51	Find no error, judgment affirmed at costs of appellant. Cause remanded for execution. Exceptions saved Reasonable ground existed for appeal. Per curiam filed. Charles A. Guernsey. George S. Middleton. Walter S. Jackson. Judges.
Feb. 20 '51	Appellant having failed to have prepared and filed, his bill of exceptions herein, within the time limit as set forth in the Court's order of December 20, 1950, this appeal is dismissed, at costs of appellant, and this cause is remanded to the Court of Common Pleas for execution. George S. Middleton. Walter S. Jackson. Charles A. Guernsey. Judges.
Mar. 28 '51	The Court sua sponte determines that this cause is not a chancery case, and is therefore not retriable upon the facts. Further determined that the appeal stands as an appeal upon questions of law. Bill of exceptions and briefs of defendant-appellant and briefs of plaintiff-appellee having been heretofore filed herein, no time is fixed for the filing of said bill of exceptions and briefs. George S. Middleton. Walter S. Jackson. Charles A. Guernsey. Judges.
May 16 '51	Find on issues joined under defendant's cross petition, in favor of defendant and against plaintiff, for reasons set forth in the opinion filed. Specific performance of lease ordered for the term of five years, beginning with the 31st day of March, 1950. All other issues raised by the pleadings, reserved by the court for further hearing. George S. Middleton. Walter S. Jackson. Charles A. Guernsey. Judges.

Docket	Page	Case No.	STYLE	Kind
		239.	Wyllie Trees & C. M. Trees, Plaintiffs-Appellees. -vs- The Pennsylvania Railroad Company, Defendant-Appellant.	
		240.	Willard Clevenger, Plaintiff-Appellee. -vs- L. R. Amrine, Defendant-Appellant.	
		241.	Catherine E. Hennessy, Plaintiff-Appellee. -vs- J. Owen Moreland, Defendant-Appellant.	
		238.	Carrie Miller, Admrx., etc., Plaintiff-Appellee. -vs- Egbert Morgan Campbell, Defendant-Appellant.	

DATE	DISPOSITION
Apr 24, '51	Find error in overruling motion of defendant railroad company for a directed verdict in its favor at the close of all the evidence, and for this error the judgment of the Common Pleas Court is reversed; and this court, rendering the judgment the Common Pleas Court should have rendered, will sustain said motion and render final judgment in favor of defendant railroad company. Costs, including costs on appeal, assessed against plaintiffs. Exceptions saved. Opinion filed. George S. Middleton. Walter S. Jackson. Charles A. Guernsey. Judges.
May 1, '51	Find no error. Judgment affirmed, at costs of appellant. Cause remanded for execution. Exceptions saved. Reasonable grounds existed for appeal. Opinion filed. George S. Middleton. Walter S. Jackson. Charles A. Guernsey. Judges.
June 13, '51	Appeal dismissed by appellant. See journal entry approved by all counsel and the court, and filed with the clerk. George S. Middleton. Walter S. Jackson. Charles A. Guernsey. Judges.
Jan 4, '52	Find error as set forth in Assignment of Error No. 5 but not so prejudicial as not to be cured by remittitur. Find no error in any of the other respects assigned and argued in appellant's brief. If the Appellee will, within thirty days after the announcement of this decision, file herein her consent in writing, to the modification of the judgment herein by reducing the principal sum thereof from the sum of \$900.00 to \$455.00, the judgment as so modified will be affirmed at costs of Appellant; otherwise the judgment will be reversed for the error mentioned, and the cause remanded for a new trial and further proceedings according to law, at costs of appellee. Exceptions saved. With reference to the assignments of error, there is nothing in the bill of exceptions, or argued orally or by brief, which demonstrates any error with reference to Assignments Nos. 1, 2, 3, 4, 6 and 7. With reference to Assignment No. 5, error obtained, but not so prejudicial as not to be cured by remittitur. Cont. next Page.

Docket	Page	Case No.	STYLE	Kind
		238		
		238.	Carrie Miller, Admrx. etc. Plaintiff Appellee - vs - Egbert Morgan Campbell, Defendant - Appellant	

DATE	DISPOSITION
	We find no prejudicial error obtaining in Assignments Nos. 8 and 9. With reference to Assignment No. 10, error occurred but not of such a prejudicial nature as to warrant a reversal. Assignment of Error No. 11 is overruled for the reason that the Appellant neither by brief nor oral argument indicates any such error. George S. Middleton. Walter S. Jackson. Charles A. Guernsey. - Judges.
Jan. 4, '52	Motion to strike bill of exceptions from the files, and to dismiss the appeal, overruled. Exceptions saved. George S. Middleton. Walter S. Jackson. Charles A. Guernsey. Judges.

Docket	Page	Case No.	STYLE	Kind
		242.	Clyde Fields, et al., Plaintiffs Appellants - vs - Board of Education of the Union County School District, Union County Ohio, et al., Defendants Appellees.	
		243.	Lawrence Foster, et al., Plaintiffs Appellants - vs - Ralph Herd, et al. Defendants Appellees.	
		245.	James Ray Plotner. Plaintiff Appellee vs. The Buckeye Union Casualty Co. Defendant Appellant.	

DATE	DISPOSITION
Feb. 7, '52	Upon the issues joined, finding in favor of plaintiffs and against the defendants and adjudge that order of injunction issue as prayed for in the petition. Further adjudged that defendants pay the costs, both in this court and in the Common Pleas Court. Exceptions saved. Cause remanded for execution. Per curiam filed. George S. Middleton. Walter S. Jackson. Charles A. Guernsey. Judges.
Feb. 7, '52	Upon the issues joined, finding in favor of plaintiffs and against the defendants and adjudge that order of injunction issue as prayed for in the petition. Further adjudged that defendants pay the costs, both in this court and in the Common Pleas Court. Exceptions saved. Cause remanded for execution. Per curiam filed. George S. Middleton. Walter S. Jackson. Charles A. Guernsey. Judges.
May 14, '52	Find error in that judgment of the Common Pleas Court is contrary to law. Judgment reversed, and this court, rendering the judgment the Common Pleas Court should have rendered, renders final judgment in favor of the defendant and against the plaintiff. Further adjudged that plaintiff-appellee pay the costs of this action, both in the Common Pleas Court and in this court. Cause remanded for execution. Exceptions saved. Opinion filed. George S. Middleton. Clarence U. Aul. Charles A. Guernsey. Judges.

92

Docket	Page	Case No.	STYLE	Kind
		248.	In Re: Appeal County Ditch 1338. Ray Fryman, Plaintiff - Appellant vs Walter Robinson, et al., Defendants - Appellees	
		248	In re: Appeal in County Ditch No. 1338, etc. Ray Fryman, Adms., etc. Plaintiff - Appellant vs. Walter Robinson, et al as Commissioners Defendants - Appellees.	
		257	In the Matter of the Petition of a Writ of Habeas Corpus by Virginia Arnett.	

DATE	DISPOSITION
Mar. 17, 1953.	Appeal on questions of law and fact dismissed by the court sua sponte. Cause retained as an appeal on questions of law only. Leave granted Plaintiff - appellant to file his bill of exceptions, assignments and brief within thirty days from the entry hereof; answer brief of defendants - appellees to be filed within forty-five days from the entry hereof; and reply brief of plaintiff - appellant to be filed within fifty days from the entry hereof. Raymond A. Younger, Charles A. Guernsey, George S. Middleton, Judges.
July 2, 1953.	Find no error. Appeal dismissed, at costs of appellant. Cause remanded for execution. Exceptions saved. Reasonable ground existed for appeal. Per curiam filed.
July 2, 1953.	Petition for writ of habeas corpus dismissed, without prejudice, at costs of Petitioner. Journal entry prepared by the court, and filed with the clerk.

Docket	Page	Case No.	STYLE	Kind
		249.	Irene Terriott, Plaintiff-Appellant. vs. Bessie Marine, et al. Defendants-Appellees.	
		250	The State of Ohio, Plaintiff - appellant, vs. Ernest Gilbert, Defendant, appellee.	
		251	The State of Ohio, Plaintiff - appellant, vs. Ernest Gilbert, Defendant - appellee.	
		252	The State of Ohio, Plaintiff - appellant, vs. Ernest Gilbert, Defendant - appellee.	

DATE	DISPOSITION
Aug. 12, 1953	Finding and decree that there is no evidence tending to prove any fact which would warrant the rescission of the agreement described in the petition and the relief incidental thereto prayed for in the petition. Judgment and decree in favor of defendants dismissing plaintiff's petition at her costs but without prejudice, as set forth in per curiam filed herewith. Cause remanded to Common Pleas Court for execution. Exceptions saved. Raymond A. Younger, Charles A. Guernsey, George S. Middleton Judges.

Nov. 3, 1954 The order appealed from not being a final order from which appeal lies, this appeal is dismissed. Cause remanded for further proceedings according to law.
Exceptions saved.
See opinion in Case No. 254.

Nov. 3, 1954 The order appealed from not being a final order from which appeal lies, this appeal is dismissed. Cause remanded for further proceedings according to law.
Exceptions saved.
See opinion in case No. 254.

Nov. 3, 1954 The order appealed from not being a final order from which appeal lies, this appeal is dismissed. Cause remanded for further proceedings according to law.
Exceptions saved.
See opinion in Case No. 254.

Docket	Page	Case No.	STYLE	Kind
		253	The State of Ohio, Plaintiff - appellant, vs. James Garvey, Defendant - appellee.	
		254	The State of Ohio, Plaintiff - appellant, vs. James Garvey, Defendant - appellee.	
		255	The State of Ohio, Plaintiff - appellant, vs. John Garvey, Defendant - appellee.	
		256	The State of Ohio, Plaintiff - appellant, vs. John Garvey, Defendant - appellee.	
		258	The Ohio Power Company, Plaintiff - appellant, vs. Harry O. Shroyer, Defendant - appellee.	

DATE	DISPOSITION
Nov. 3, 1954	The order appealed from not being a final order from which appeal lies, this appeal is dismissed. Cause remanded for further proceedings according to law. Exceptions saved. See opinion in Case No. 254.
Nov. 3, 1954	The order appealed from not being a final order from which appeal lies, this appeal is dismissed. Cause remanded for further proceedings according to law. Exceptions saved. Opinion filed.
Nov. 3, 1954	The order appealed from not being a final order from which appeal lies, this appeal is dismissed. Cause remanded for further proceedings according to law. Exceptions saved. See opinion in Case No. 250.
Nov. 3, 1954	The order appealed from not being a final order from which appeal lies, this appeal is dismissed. Cause remanded for further proceedings according to law. Exceptions saved. See opinion in Case No. 254.
Nov. 11, 1954	Find no prejudicial error in any of the particulars assigned and specified and argued in the brief of appellant. Judgment affirmed, at costs of appellant, and cause remanded for execution. Exceptions saved. Reasonable ground existed for appeal. Opinion filed.

Docket	Page	Case No.	STYLE	Kind
		259.	Le Roy. Retterer et al., Plaintiffs - Appellees. - vs - Joseph E. Lippe, et al., Defendants - Appellants.	
		262	Jesse Salpew, Plaintiff - Appellee - vs - Oy-lu Brass, Inc., Defendant, Appellant	
		261	J. Wilbur Bates, et al., Plaintiffs - Appellees. - vs - Cloyd A. Middlesworth et al., Defendants - Appellants	

DATE	DISPOSITION
Apr. 8, 1954.	Finding on the issues joined, in favor of the plaintiffs and against the defendants; judgment and decree the same as entered by the Common Pleas Court. Costs assessed against appellants. Cause remanded for execution. Exceptions saved. Reasonable ground existed for appeal. Raymond A. Younger, Charles A. Guernsey, George S. Middleton, Judges.
Dec. 22, 1954	Motion of plaintiff-appellee to dismiss the appeal herein for failure of defendant-appellant to file its assignments of error and brief herein within rule, overruled. Leave granted defendant-appellant to file its assignments of error and brief herein, instant. Leave to plaintiff-appellee to file answer brief herein on or before Jan. 15, 1955; and leave to defendant-appellant to file its answer brief herein on or before January 20, 1955. Exceptions saved. Raymond A. Younger Joseph B. Guatman George S. Middleton Judges
Jan 5, 1955	Cause settled and appeal dismissed, with prejudice. Costs paid. Journal entry approved by all counsel and the court, and filed with the clerk. Raymond A. Younger, Joseph B. Guatman, George S. Middleton, Judges.

Docket	Page	Case No.	STYLE	Kind
		264.	John M. Auliffe, et al., Plaintiffs-Appellees. -vs- C. G. Clegg, et al., Defendants-Appellants	
		265.	James V. Elliott, Plaintiff-Appellant. -vs- John Henry Milligan et al., Defendants-Appellees.	
		266.	State of Ohio ex rel Otto Rausch, a taxpayer etc., et al., Plaintiffs -vs- Arthur Galloway, et al., etc., Defendants	
		266	State of Ohio ex rel Otto Rausch, a taxpayer etc., et al., Plaintiffs-Appellees vs - Arthur Galloway, et al., Defendants-Appellants	

DATE	DISPOSITION
	Find no prejudicial error in any of the particulars specified in the assignments of error and argued in appellants' brief. Judgment affirmed, at costs of appellants, and cause remanded for execution. Exceptions saved. Reasonable ground existed for appeal. Joseph B. Quatman, George S. Middleton, Raymond A. Younger. - Judges.
Jan 27, 1956	Find no prejudicial error in any of the particulars specified in the assignments of error and argued in appellant's brief. Judgment affirmed, at costs of appellant, and cause remanded for execution. Exceptions saved. Reasonable ground existed for appeal. Joseph B. Quatman, George S. Middleton, Raymond A. Younger.
Mar 29, 1956	On application of George W. Coen, Counsel for The Fairfield - County Agricultural Society, leave is granted to file brief amicus curiae herein. Journal entry approved by the Court ^{and} filed with the clerk. George S. Middleton Raymond A. Younger. Judges.
Sept. 7, 1956	Find no prejudicial error in any of the particulars specified in the assignments of error and argued in appellants' brief. Judgment affirmed, at costs of appellants, and cause remanded for execution. Exceptions saved. Reasonable ground existed for appeal. Opinion filed. Joseph B. Quatman, George S. Middleton, Raymond A. Younger.

99

Docket	Page	Case No.	STYLE	Kind
		272.	Nicholas Tobicash, Plaintiff-Appellee. - vs - Thomas Barnett, Defendant-Appellant	

DATE	DISPOSITION
July 16, 1957.	Find no reversible error in any of the errors assigned and argued in the brief of the appellant. Judgment affirmed, at costs of appellant, and cause remanded for execution. Exceptions saved. Reasonable ground existed for appeal.
	The evidence of the defendant that he observed the approaching pick-up truck weaving, approximately a quarter of a mile ahead of him as he approached it; that he slowed down his automobile from a speed of 40 to 45 miles per hour to approximately 20 miles per hour, at which speed he was traveling when he had his automobile one-fourth on the paved portion of the 24-foot highway and three-fourths on the five or six foot berm; together with all the other evidence introduced in the case fails to show a legal excuse precluding liability for injuries to plaintiff, caused by crossing over the center line of the highway after passing said pick-up truck. Bush v. Harvey Transfer Co., 136 O.S. 657. Lehman v. Hayman. 164 O.S., 595.
	The evidence fails to sustain the burden of proof which is on the defendant to establish that it was impossible for him to prevent his automobile from going onto the wrong side of the road and that he was not at fault in, and had no reason to anticipate or foresee, such conditions.
	The trial court was therefore correct in sustaining the motion of plaintiff; in directing the jury not to consider the question of proximate cause, in that the defendant was guilty of negligence per se which was the proximate cause of plaintiff's injuries; and in limiting the jury to one form of verdict under which it considered only the question of the nature and extent of plaintiff's injuries and the amount to be awarded therefor.
	The sustaining of the plaintiff's motion "to direct the jury that they find a verdict in favor of the plaintiff" by the court, necessarily removed from the jury in its entirety, the question of proximate cause, and although in the earlier portion of the general charge the court referred to proximate cause and defined the term, it later correctly charged the jury not to consider proximate cause. Any consideration by the jury of the question of proximate cause under these conditions could not be prejudicial to the defendant-appellant. George S. Middleton Raymond A. Younger Thomas G. Giesbrecht - Judges.

DATE	DISPOSITION
June 26, 1958.	Find no prejudicial error in any of the particulars specified in the assignments of error and argued in appellant's brief. Judgment affirmed, at costs of appellant, and cause remanded for execution. Exceptions saved. Reasonable grounds existed for appeal. The Court finds there is no evidence in the record before us which would warrant a finding that the appellant, as guardian, acted in any manner not in the best interest of his wards. The Court further find there is no evidence in the record before us which would warrant a finding that the appellant, as guardian, acted in any manner which could be held to be fraudulent conduct. The Probate Court had statutory authority to remove appellant as guardian because of failure to file an account within a two year period following his appointment as guardian. This Court has no power or authority to consider the wisdom or the propriety of the action taken by the Probate Court in this matter. The sufficiency of appellant's reasons for his failure or inability to file an account are matters lying within the sound discretion of the Probate Court, and since neither said reasons nor the reasoning of the the Court are disclosed by the evidence contained in the transcript of the evidence before us, we cannot say that there was an abuse of discretion upon the part of that Court. George S. Middleton. Raymond A. Younger. J. Thomas Guernsey - judges -
	The Court find upon the agreed statement of facts and exhibits introduced in evidence that the child herein involved is lawfully in the custody of the respondent, that is, its father, John B. Haines, by reason of a valid and subsisting order of a Court of competent jurisdiction having jurisdiction over such child and is therefore not being unlawfully detained and concealed from the petitioner. Petition for writ of Habeas Corpus Denied. Costs assessed against petitioner. Exceptions saved. Opinion filed. George S. Middleton. Raymond A. Younger. J. Thomas Guernsey - judges -

Docket	Page	Case No.	STYLE	Kind
		275	Annabel Haines, Plaintiff-Appellant - vs - John B. Haines, Defendant-Appellee	
		277.	Carroll Trucking Company, and Employers Liability Assurance Co. Plaintiffs-Appellees - vs - Floyd C. Kerns, Defendant-Appellant	
		278.	In the Matter of the Estate of Eugene Gibson, Deceased.	
		274.	Gus Soteriades, 3237 Kenny Rd. - Columbus, Ohio. Plaintiff-Appellee. vs. New York Central Railroad Co. a/c/p. 370 West Broad St. - Columbus, Ohio Defendant-Appellant	

DATE	DISPOSITION
Sept. 2, 1958	Case dismissed on appellant's motion at her costs. Appeal bond vacated and sureties thereon released. George S. Middleton Raymond A. Younger J. Thomas Guernsey Judges
Dec. 2, 1958	By agreement of the parties and with the approval of the Court, the appeal dismissed at costs of Appellant. George S. Middleton, Raymond A. Younger, J. Thomas Guernsey, Judges.
Dec. 23, 1958.	On Motion of Appellee to dismiss appeal, Court find that notice of appeal was filed on October 18, 1957, that no bill of exceptions, assignments of error, or appellants brief have been filed, and that said motion is well taken. Appeal dismissed at cost of appellant. Cause remanded for execution. Exceptions saved. George S. Middleton, Raymond A. Younger, J. Thomas Guernsey, Judges.
Jan. 6, 1959.	Find no error in the particulars assigned and argued. Judgment affirmed at costs of Defendant-Appellant. Cause remanded for execution. Reasonable grounds for appeal. Exceptions saved. George S. Middleton, Raymond A. Younger, J. Thomas Guernsey, Judges.

Docket	Page	Case No.	STYLE	Kind
		274.	Gus Soteriades. Plaintiff-Appellee - vs - New York Central Railroad Co. Defendant-Appellant.	
		279.	State Ex Rel Union Limestone, Inc. Relator. - vs - Ernest Bumgarner, Millcreek Twp. Zoning Inspector. Respondent.	
		283.	State of Ohio, Ex. Rel., Annabel Haines. Plaintiff-Relator. - vs - Fred Easton, Mayor of the Village of Marysville, Ohio and Judge of the Mayor's Court. Defendant-Respondent.	
		282	Smith Grain Co., Inc., Appellant - vs - Village of Marysville, Ohio + Cleveland Columbus, Cincinnati + St. Louis R.R., Appellees.	

DATE	DISPOSITION
Jan. 23, 1959.	An application of defendant-appellant for rehearing denied. George S. Middleton, Raymond A. Younger. J. Thomas Guernsey. Judges.
Mar. 10, 1959.	Alternative writ of mandamus allowed directing that respondent issue the building permit as requested in relator's application of August 1, 1958, or that he show cause on the 24th day of March, 1959, at ten o'clock A.M., before this Court sitting at Lima, Ohio, why he does not do such act. Raymond A. Younger. J. Thomas Guernsey. George S. Middleton. - Judges.
Dec. 19, 1959.	Case Dismissed. See Entry. Raymond A. Younger J. Thomas Guernsey. George S. Middleton. Judges.
Nov. 18, 1959.	Find error prejudicial to appellant in action of Court below in sustaining demurrer of appellees to appellants amended petition as in the opinion of this Court said amended petition states a cause of action. By reason of the 1953 amendment to Section 5577.05 R.C., neither of the defendants-appellees is required to provide a twelve foot four inch vertical clearance nor to change the structure complained of in said amended petition and such structure is therefore not a nuisance per se. The demurrer admits all well pleaded facts and the cross petition is to be liberally construed in favor of the pleader. Therefore the allegation of the amended petition that such structure constitutes an obstruction in said public street which which interferes with lawful traffic and is dangerous to such lawful traffic, together with the further allegations that appellees failed to take ordinary precautionary measure to warn highway traffic of said low viaduct and that such failure is the direct and proximate cause of the damage to the appellant, state a cause of action when tested by demurrer. Judgment reversed and cause remanded with instructions to the lower court to overrule appellees demurrer and for further proceedings according to law.

Docket	Page	Case No.	STYLE	Kind
		282.-	Smith Grain Co. Inc. Plaintiff-Appellant. -vs- Village of Marysville, Ohio + Cleveland Columbus, Cincinnati + St Louis R.R. Appellees.	
		284.	Joseph Ridgeway, Sr. Plaintiff-Appellant. -vs- Ednah Mattison, Defendant-Appellee.	
		285.	Max Fell and Nationwide Insurance Company, Plaintiffs-Appellees. -vs- Lester E. Thompson Defendant-Appellant.	
		285.	Max Fell and Nationwide Insurance Company, Plaintiffs - Appellees. -vs- Lester E. Thompson Defendant-Appellant.	

DATE	DISPOSITION
Nov. 18, 1959.	Costs to abide the final determination of such cause. Exceptions saved. Raymond A. Younger. J. Thomas Guernsey. George S. Middleton. Judges.
Mar. 25, 1960	Upon Motion of Appellant, the matter having been settled between the parties, this appeal is dismissed at the costs of Appellant. Raymond A. Younger. J. Thomas Guernsey. George S. Middleton. Judges.
	Upon Motion of Appellee to Dismiss the Appeal herein for failure to file Bill of Exceptions, etc., within time, the court finds ^{that} this cause is not within those classes of cases Appealable on questions of law and fact. Motion overruled. Sua Sponte the Appeal herein is dismissed on questions of Law and Fact and retained on questions of Law. Further ordered that Appellant shall have not to exceed thirty days from the entry of this judgment for the preparation and settlement of a bill of exceptions, and that his assignments of error and briefs shall thereafter be filed within the time prescribed by Rule VII-A (2) of the rules of practice of the Courts of Appeal of Ohio. Raymond A. Younger. J. Thomas Guernsey. George S. Middleton. Judges.
Oct. 29, 1960	Find no Error Prejudicial to Defendant Appellant in any of the Matters set forth in the assignment of Error or argued in Appellant's Brief. Judgment Affirmed, and Cause remanded for Execution Reasonable Grounds Existed for the Appeal. Exceptions saved. - Costs Assessed against Defendant-Appellant. Raymond A. Younger. J. Thomas Guernsey. George S. Middleton. Judges.

Docket	Page	Case No.	STYLE	Kind
		287.	Citizens Federal Savings & Loan Assn., Marysville, Ohio. Plaintiff - Appellee - vs - Lawrence A. Conard and Dorothy E. Conard. Milford Avenue, Marysville, Ohio and Richard Simkins. 433 Ash Street, Marysville, Ohio. Defendants - Appellants.	
		286.	State Ex Rel George W. Keigley dba, Wardon Publishing Co., Richwood, Ohio. and Marysville Newspapers, Incorporated, Marysville, Ohio Relators, - vs - Frank White Auditor of Union of Union Co., Ohio. Marysville, Ohio. Respondent.	
		289.	Milton Cooper, 616 East 6th St. - Marysville, Ohio Plaintiff - Appellee - vs - Harry Mechtensimer 818 Selwyn Road. Cleveland Heights 12, Ohio Defendant - Appellant.	

DATE	DISPOSITION
Nov. 30, 1960.	Case having been settled and dismissed in Common Pleas Court Appeal herein dismissed at costs of appellant. Raymond A. Younger, J. Thomas Guernsey, George S. Middleton. Judges.
Dec. 7, 1960.	Cause settled and Dismissed with prejudice. at Plaintiff's Cost. Raymond A. Younger, J. Thomas Guernsey, George S. Middleton. Judges.
Apr. 26, 1961	This case having heretofore been appealed on questions of law and fact application of appellee to have appeal dismissed for failure to file Bill of Exceptions is not well taken and the same is overruled. Sua sponte Court find that this cause is not within those classes of causes appealable on questions of law and fact. Appeal dismissed on questions of law and fact and retained on questions of Law. Appellant shall file Bill of Exceptions within 30 days from the entry of this judgment, Assignments of Error and Briefs to be filed thereafter within the time prescribed by Rule VII-A(2) of the Rules of Practice of the Court of Appeals of Ohio J. Thomas Guernsey, George S. Middleton, Raymond A. Younger. Judges.

Docket	Page	Case No.	STYLE	Kind
		290.	In re: J. Harvey Crow. Charge: - Contempt.	
		291.	In the Matter of a Petition for a Writ of Habeas Corpus for J. Harvey Crow.	
		290.	In Re Contempt-J. Harvey Crow.	
		288.	William T. Gulliford, Executor of the Estate of Hazel Wilkins Burden, deceased. - vs - Frank Burden, et al., Plaintiff-Appellee Defendants-Appellant	
		290	In Re Contempt J. Harvey Crow	
		289.	Milton Cooper, 616 East 6th, St. Marysville, O. Plaintiff-Appellee - vs - Harry Mechtensimer, 888 & Elwyn Road, Cleveland Heights, Ohio. Defendant-Appellant	

DATE	DISPOSITION
Apr. 25, 1961.	Pursuant to Section 2705.09 Revised Code Appeal bond fixed at \$500.00 See Journal Entry. J. Thomas Guernsey, George S. Middleton, Raymond A. Younger - Judges.
May 6, 1961.	On Motion of Petitioner Petition dismissed at his Costs. See Journal Entry. (Middleton J., not participating.) J. Thomas Guernsey, Raymond A. Younger - Judges.
June 3, 1961.-	On Motion of Appellant and for good cause shown, the time for filing his brief and assignment of errors is extended to June 30, 1961. J. Thomas Guernsey, George S. Middleton, Raymond A. Younger - Judges.
June 10, 1961.-	Appeal dismissed for want of Prosecution. See Journal Entry. J. Thomas Guernsey, George S. Middleton, Raymond A. Younger - Judges.
Sept. 23 1961	Assignments of Error and Appellant's Brief Withdrawn. Ordered Assignments of Error and Brief Regained By Appellant's Attorney Be Filed Instantly. See Journal Entry. J. Thomas Guernsey, George S. Middleton, Raymond A. Younger - Judges.
Oct 4, 1961.	Court find Motion to Dismiss Appeal for failure to file Bill of Exceptions not well taken. Motion Overruled. - Exceptions saved. J. Thomas Guernsey, George S. Middleton, Raymond A. Younger - Judges.

Docket	Page	Case No.	STYLE	Kind
		290.	In Re: J. Harvey Crow. Charge: - Contempt.	
		292.	State of Ohio, Plaintiff-Appellee, - vs - James Arthur Fowler, Jr., Defendant-Appellant.	
		289.	Milton Cooper, 116 East 6th St. - Marysville, Ohio. Plaintiff-Appellee. - vs - Harry Mechtensimer, 888 Delwyn Rd. - Cleveland Heights, Ohio. Defendant-Appellant.	
		293.	Union County Child Welfare Board Marysville, Ohio. Plaintiff-Appellee. - vs - Jeanette Lyons South, age 19 and Parthena Poling, her mother and legal guardian. Defendants-Appellants.	

DATE	DISPOSITION
Nov. 7, 1961.	Find error prejudicial to the Appellant, J. Harvey Crow, as there is no evidence of probative value in the record to support the judgment rendered. Judgment reversed, Proceedings Dismissed. Appellant Discharged. Cause Remanded. Per Curiam Opinion filed. J. Thomas Guernsey. George S. Middleton. Raymond A. Younger - Judges.
Jan. 13, 1962.	Find no error prejudicial to Defendant-Appellant in any of the particulars specified in the assignment of errors or argued in Appellant's Brief. Judgment affirmed and cause remanded to the Common Pleas Court of Union County for execution. Reasonable grounds existed for the appeal. Costs Assessed against Defendant-Appellant. Exceptions saved. J. Thomas Guernsey. George S. Middleton. Raymond A. Younger - Judges.
Feb. 10, 1962.	Find no error prejudicial to Defendant-Appellant. Judgment of Trial Court affirmed, Reasonable grounds existed for appeal. Costs Assessed against Plaintiff-Appellee. Exceptions saved. - Cause remanded for Execution. J. Thomas Guernsey. George S. Middleton. Raymond A. Younger - Judges.
Mar. 7, 1962.	Find no error prejudicial to the Defendants-Appellants. There is sufficient evidence of probative value, which, if believed by the Juvenile Court, would support the order for permanent custody as made. Therefore this Court cannot say there is no evidence to support the order nor can it substitute its judgment for that of the Trial Court. Judgment Affirmed. Costs Assessed against Appellants. Reasonable grounds existed for Appeal. Cause remanded for execution. Exceptions saved. J. Thomas Guernsey. George S. Middleton. Raymond A. Younger - Judges.

Docket	Page	Case No.	STYLE	Kind
		294.	The State of Ohio, Plaintiff-Appellee -vs- Frank Eugene Stratton Defendant-Appellant	
		295.	Lester Downing, Plaintiff-Appellant. -vs- Union County Child Welfare Board. Defendant-Appellee	
		297.	C. B. Haggard, 111 W. 6th St. - Marysville, Ohio. Plaintiff-Appellant. -vs- Rich Laundry Machinery Co., 1514 Wealthy St. - Grand Rapids, Mich. Defendant-Appellee	
		296.	A + B Land Development Co., Niles, Ohio. Plaintiff-Appellant, -vs- Lawrence Conard + Dorothy Conard Marysville, O. and. Clair Bushong, Jr., Marysville, Ohio. Defendants-Appellees.	

DATE	DISPOSITION
Apr. 11, 1962.	Find no error prejudicial to the Defendant-Appellant. Judgment affirmed at costs of Defendant-Appellant. Cause remanded for execution. Reasonable cause existed for appeal. Exceptions saved. J. Thomas Guernsey. George S. Middleton. Raymond A. Younger. Judges.
Sept. 12, 1962.	Appeal dismissed on Law and Fact, Retained on Questions of Law. See Journal Entry. J. Thomas Guernsey. George S. Middleton. Raymond A. Younger. Judges.
Dec. 18, 1962.	Find no error in any of the particulars assigned and argued. Judgment affirmed at costs of Plaintiff-Appellant. Cause remanded for execution. Reasonable Grounds existed for Appeal. Exceptions saved. J. Thomas Guernsey. George S. Middleton. Raymond A. Younger - Judges.
Jan. 5, 1963	Find error of the Court of Common Pleas Prejudicial to Plaintiff-Appellant in the Computation of the Money Judgment rendered in favor of Plaintiff-Appellant and against Defendant-Appellees. All of said money judgment reversed and vacated. Judgment entered June 20, 1962, Otherwise affirmed. Costs of Appeal adjudged in favor of Plaintiff-Appellant and against Defendants-Appellees. This Court rendering the Money Judgment the Court of Common Pleas should have rendered finds, Determines, Orders and Adjudges that the original principal amount of the obligation herein was \$7500.00; That the seven (7) installments of \$75.00 each paid by Defendants-Appellees to Plaintiff-Appellant are respectively first applicable to Interest on the balance of principal due at the time of the payment on each installment computed at the rate of six (6) percent per annum, payable monthly and the balance of each of said installments is then applicable to the reduction of principal; That, as so applied, there was then due a balance of principal on October 3, 1961, on said obligation of \$7261.85; That by reason of the postponement by the Trial Court of Foreclosure until January 1, 1963, the said Principal balance of \$7261.85 bears interest at the rate of six (6) percent per annum from October 3, 1961, to January 1, 1963 being the sum of 542.21 and that the Plaintiff-Appellant shall recover from the Defendants-Appellees the amount of \$7804.06 with Interest thereon at the rate of six (6) percent per annum from January 1, 1963, until paid. Cause remanded for Execution. Exceptions saved. Opinion filed. J. Thomas Guernsey. George S. Middleton. Raymond A. Younger. Judges.

Docket	Page	Case No.	STYLE	Kind
2		298	Ira Eidemiller, Plaintiff, Appellee - vs - Le Roy Kuntz, Defendant	
2		300.	Harold Wilcox, Plaintiff-Appellant, - vs - Virginia Wilcox, Defendant-Appellee	
2		300.	Harold Wilcox, Plaintiff-Appellant, - vs - Virginia Wilcox, Defendant-Appellee	

DATE	DISPOSITION
Feb 28 '63	Documents filed in this Court Stricken & appeal dismissed. See Journal entry. George S. Middleton Raymond A. Younger J. Thomas Guernsey
Nov 18, '63	On the Application of the Appellant and for good cause shown, Rule Day for Appellant's Brief is extended to November 16, 1963. George S. Middleton J. Thomas Guernsey Judges.
Dec 18, '63	Motion of Appellee to dismiss appeal overruled. Motion of Appellant for leave to file Bill of Exceptions when allowed granted. See Journal Entry. (If Kline v. Standard Oil Co., 16 O.L.A., 120, is valid authority under the statutes as they now exist that a precept must be filed with the clerk of the trial court to file a bill of exceptions in the Court of Appeals it is not valid authority to require that such precept be filed prior to the allowance, signing and returning of the bill to such clerk by the trial judge. Once a bill of exceptions has been filed with the Clerk of the trial Court such clerk has certain mandatory duties to perform as prescribed by Sec. 2321.06, R.C., including the duty to transmit same to the trial judge for this action. No leave of this Court is needed to file in this Court a bill of exceptions properly filed with the clerk of the trial court and allowed by the trial judge. Leave granted merely to clarify and doubts of counsel.) George S. Middleton Raymond A. Younger J. Thomas Guernsey Judges.

Docket	Page	Case No.	STYLE	Kind
2.		299.	The State of Ohio, Plaintiff-Appellant, - vs - William A. Saygrover Defendant-Appellee.	
2.		301.	Lawrence Conard, Plaintiff-Appellant, - vs - The Nestle Company, Inc. Defendant-Appellee.	
2.		308.	Forest Bigelow and Grace Bigelow Plaintiffs-Appellees, - vs - Elton C. A. Renner and Frieda Renner. Defendants-Appellants.	
2.		303.	Bertha Schellenbarger Plaintiff-Appellant, - vs - James L. Young, Administrator, Bureau of Workmen's Compensation et al., Defendants-Appellees.	
2.		308.	Forest Bigelow and Grace Bigelow Plaintiffs-Appellees, - vs - Elton C. A. Renner and Frieda Renner. Defendants-Appellants.	

DATE	DISPOSITION
Jan 9, 1964.	Court find sua sponte that the order appealed from does not constitute a final appealable order and that; for such reason, the appeal should be dismissed. Court further find, the appeal being thus terminated, that the motion of the appellee to dismiss the appeal for want of prosecution and the motion of the appellant for leave to file its brief and assignments of error should be overruled. Ordered, Adjusted and Decreed that the appeal be, and the same hereby is, dismissed, at the costs of the State of Ohio, and that the motion of the appellee to dismiss the appeal for want of prosecution and the motion of appellant for leave to file its brief and assignments of error be, and the the same hereby are overruled. Exceptions saved. Opinion filed. George S. Middleton. Raymond A. Younger. J. Thomas Guernsey - Judges.
Feb. 15, 1964.	Upon Plaintiff-Appellant's Motion filed for an extension of time to prepare and file his Brief, and for good cause shown, a period of 30 days is hereby granted Plaintiff-Appellant in which to prepare and file his brief. George S. Middleton. Raymond A. Younger. J. Thomas Guernsey - Judges.
Aug 29, 1964.	Application of Plaintiffs-Appellees to present Photographs of the Disputed Easement and its surroundings into evidence found well taken in that the admission of same is in the interest of justice. Ordered that same shall be filed in this cause forthwith. Exceptions saved. George S. Middleton. Raymond A. Younger. J. Thomas Guernsey - Judges.
Aug 21, 1964	Time for Filing Appellees Brief extended to September 4, 1964. Raymond A. Younger. J. Thomas Guernsey - Judges.
Aug 29, 1964.	Application of Defendants-Appellants to present photographs of the disputed easement and its surroundings into evidence found well taken in that the admission of same is in the interest of justice. Ordered that same shall be filed in this cause forthwith. Exceptions saved. George S. Middleton. Raymond A. Younger. J. Thomas Guernsey - Judges.

Docket	Page	Case No.	STYLE	Kind
2.		302	Union County Child Welfare Board - vs - Robert Parker, and Marilyn Parker Bendler - Appellee. Appellee appellant.	
2.		301.	Lawrence Conard, - vs - The Nestles Company, Inc., A Corporation Plaintiff-Appellant Defendant-Appellee.	
2.		300.	Harold Wilcox, - vs - Virginia Wilcox Plaintiff-Appellant Defendant-Appellee	

DATE	DISPOSITION
July 3, 1964.	Find Error of the Juvenile Court Prejudicial to the Appellant in that the Judgment and Order Appealed from awarding permanent custody of the two children named therein to the Appellee Child Welfare Board was founded on a determination of Dependency and neglect in temporary custody proceedings which were void Ab Initio in that no complaint, as prescribed by statute, had ever been filed to initiate such proceedings. The Judgment and order appealed from is reversed and vacated at the costs of the appellee child Welfare Board and the cause is remanded to the juvenile Court. Exceptions saved. Opinion filed. George S. Middleton Raymond A. Younger J. Thomas Guernsey Judges. -
July 2, 1964.	Find no error prejudicial to the Plaintiff-Appellant in any of the particulars set forth in the assignments of error or argued in the Briefs. Judgment affirmed at the costs of the Plaintiff-Appellant. Cause remanded for execution. Reasonable Grounds existed for Appeal. Exceptions saved. Opinion filed. George S. Middleton. Raymond A. Younger. J. Thomas Guernsey Judges.
July 1, 1964.	Find Error prejudicial to Plaintiff-Appellant in granting the lump sum Judgment to Defendant-Appellee by the Trial Court. Said Judgment is reversed and set aside. Whether the Journal Entry in the Non-Support case is admissible as evidence herein is immaterial as Defendant-Appellee by her own testimony herein admitted she employed an attorney to work out a settlement at the time the Appellant was indicted for non-support. Admitted she accepted the lump sum of \$150.00 and \$7.50 per week later by Appellant as the best settlement then obtainable by her attorney, such settlement between Divorced Husband & wife, being legal and proper, may be proven in any proper manner but need not be proven Aliunde if admitted by wife as it is here and acquiesced in by her for sixteen years. Find no error prejudicial to Appellant in Judgment of Trial Court raising support payments to \$25.00 per week and awarding fees of \$200.00 to Appellees Atty. and same is affirmed. Costs assessed against Appellee - Cause Remanded Exceptions saved. George S. Middleton Raymond A. Younger J. Thomas Guernsey Judges.

Docket	Page	Case No.	STYLE	Kind
2.		304.	State of Ohio. Plaintiff-Appellant. -vs- William A. Baygrover. Defendant-Appellee.	
2.		305.	State of Ohio. Plaintiff-Appellant. -vs- Jerry Goode, aka Jerry Leo Goode and Jerry Good. Defendant-Appellee.	
2.		309.	State of Ohio Plaintiff-Appellant. -vs- Pearl Belville - Marysville O. - Rt. #4. Burl Belville - Marysville O. - Rt. #1. Defendants-Appellees.	
2.		303.	Bertha Shellenbarger Box 112, Howard, Ohio. Plaintiff-Appellant. -vs- James L. Young as Admr. of Bureau of Workmen's Compensation The Industrial Commission of Ohio Ohio Department of Welfare, Reformatory for Women Marysville, Ohio	

DATE	DISPOSITION
Dec 2 1964	On Motion of Defendant-Appellee Appeal dismissed at the costs of the Plaintiff-Appellant and cause remanded for execution. Exceptions saved. State has no appeal as of right. See reasoning of Supreme Court and Court of Appeals in Toledo vs. Crews, 174 O.S., 253, and 117 O.A., 247. See also section 298, Skell's Ohio Appellate Manual, 1963 Service and 1964 Service. Right of State to file bill of exceptions under provisions of Section 2945.67 et seq., R.C., is not involved herein for procedure therein provided has not been followed. George S. Middleton. Raymond A. Younger. J. Thomas Guernsey. Judges. -
Dec 2 1964	Appeal dismissed at the costs of the Plaintiff-Appellant and cause remanded for execution. Exceptions Saved. (State has no appeal as of right. See reasoning of Supreme Court and Court of Appeals in Toledo vs. Crews, 174 O.S., 253 and 117 O.A., 247. See also Section 298, Skell's Ohio Appellate Manual, 1963 Service and 1964 Service. Right of State to file bill of exceptions under provisions of Section 2945.67, et seq., R.C., is not involved herein for procedure therein provided has not been followed.) George S. Middleton. Raymond A. Younger. J. Thomas Guernsey. Judges. -
Jan 22 1965.	Motion to Dismiss for want of Final appealable Order Sustained. Appeal dismissed at Costs of the Appellant Cause remanded for Execution. Exceptions saved. George S. Middleton. Raymond A. Younger. J. Thomas Guernsey. Judges. -
Jan 9th. 1965.	Find no error prejudicial to the Plaintiff Appellant in any of the matters set forth in the Assignments of Error and argued in the briefs. Judgment affirmed at the costs of the Plaintiff-Appellant. Cause remanded for Execution. Reasonable grounds existed for the appeal. Exceptions saved. George S. Middleton. Raymond A. Younger. J. Thomas Guernsey. Judges. -

Docket	Page	Case No.	STYLE	Kind
		307.	Dorothy N. Wilson, 206 E. Main St. - Cardington, Ohio. and Ohio Casualty Insurance Co. - 2905 N. High St. Columbus, Ohio. Howard V. Herd, Marysville, Ohio R#4. Plaintiffs Appellants. Defendant-Appellant.	
		311.	State of Ohio. Plaintiff-Appellee. -vs- Edward Kerns. Defendant-Appellant.	
		310	State of Ohio Plaintiff-Appellee -vs- Rock Caldwell Defendant-Appellant.	
		311.	State of Ohio, Plaintiff-Appellee. -vs- Edward Kerns. Defendant-Appellant.	

DATE	DISPOSITION
Feb 3, 1965	Find error of the trial court prejudicial to the defendant-appellant in not directing a verdict for the defendant-appellant on plaintiffs third cause of action and in submitting the same thereto to the jury by charge and verdict inextricably entwined with and on the same theory of liability as the first two causes of action. Judgment reversed and vacated. Cause remanded to the common pleas court for new trial and further proceedings as provided by law. Costs to abide final determination of the action. Exceptions saved. Younger, J., dissents. Majority opinion filed. (See Ohio Bar XXXVIII, No. 6, Dated February 8, 1965. George S. Middleton, Raymond A. Younger, J. Thomas Guernsey, Judges.
July 20, 1965.	Motion to set Bail overruled. See Journal Entry. Raymond A. Younger, J. Thomas Guernsey, Judges.
Sept 9, 1965.	Find no error prejudicial to the defendant-appellant. Judgment of the Common Pleas Court affirming the judgment of the municipal court affirmed at the costs of the appellant. Cause remanded for execution. Exceptions saved. memo: For aught that appears in the record before us, objection to the form of the affidavit was made in the trial court and the affidavit, charging a minor offense and not to be construed with the same degree of strictness as an indictment charging a major offense. (State v. Marcinski, 103 Ohio State, 613) is sufficient to charge a violation of Section 4549.03, Revised Code.) Raymond A. Younger, J. Thomas Guernsey, George S. Middleton, Judges.
Oct 8, 1965	Appeal Dismissed at Costs of Appellant. Cause remanded for Execution. - Exceptions saved. (Hover, J. of the First Appellate Judicial District, sitting by designation in the Third Appellate Judicial District, Raymond A. Younger, J. Thomas Guernsey, J. Watson Hover, - Judges.

Docket	Page	Case No.	STYLE	Kind
		315.-	In the Matter of the Appropriation by the State of Ohio of Easements for Highway purposes over the property of Richard M. Cotton, et al., and the Appropriation by the State of Ohio of the Fee for Highway purposes of the lands of Richard M. Cotton et al. on State Route No. U.S. 33, - Section 7, 97, Union County, Ohio.	
		316.-	Director of Highways, State of Ohio Plaintiff-Appellee. -vs.- Philip Vanderau, R #5, Marysville, O.; Bertha J. Vanderau R #5, Marysville, O.; William Vanderau, R #5, Marysville, O.; Nina L. Vanderau R #5, Marysville, O. Treas. of Union Co. Marysville, Ohio. Defendants-Appellants.	
		316.-	Director of Highways, State of Ohio vs. Plaintiff Appellee Philip Vanderau - R #5, Marysville O., Bertha J. Vanderau, R #5, Marysville O., William Vanderau - R #5, Marysville O., Nina L. Vanderau - R #5, Marysville O., Treasurer of Union Co., Marysville O. Defendants-Appellants	
		313	Bituminous Casualty Corporation, a Corporation, Rock Island, Illinois, Plaintiff-Appellant -vs- Donald L. Strong, Administrator of the Estate of Arthur A. Strong, deceased, 947 Van Kild Drive, Marysville, Ohio Defendant-Appellee	
		318	The Union Bank Company an Ohio Bank Corporation Columbus, Ohio Plaintiff-Appellee -vs- J. Harvey Crow, et al., Defendants-Appellants	
		317	Leibert L. Young Appellee -vs- Board of Review Department of State Personnel Appellant	

DATE	DISPOSITION
Feb. 17/1966	On Motion of Director of Highways Appeal dismissed at his costs. Raymond A. Younger. J. Thomas Guernsey. George S. Middleton. Judges.
Mar 29 1966.	Appeal Dismissed on questions of Law and Fact and retained on - Questions of Law only. See Journal Entry. Raymond A. Younger. J. Thomas Guernsey. George S. Middleton. Judges.
May 12, 1966.	On Motion of Appellant Appeal Dismissed at Costs of Appellant, Raymond A. Younger J. Thomas Guernsey George S. Middleton - Judges
July 29 1966	Find no error prejudicial to the Plaintiff-Appellant in any of the particulars assigned and argued. Judgment affirmed at the costs of the Plaintiff-Appellant. Cause remanded for execution. Reasonable grounds existed for the appeal. Exceptions saved. Raymond Younger J. Thomas Guernsey - George S. Middleton - Judges
Oct 19 1966	Court finds, sua sponte, that the order appealed from is not a final appealable order. Appeal dismissed. Costs on appeal assessed against appellant. Cause remanded for execution Exceptions saved. Raymond A. Younger J. Thomas Guernsey George S. Middleton, Judges
Jan 4 1967	Motion to dismiss appeal overruled. Find no error of the Common Pleas Court of Union County in the particulars assigned and argued. Judgment affirmed at the costs of the Appellant Board. Cause remanded to the Common Pleas Court for Execution and for Certification of its Judgment to the said Board as provided by law. Reasonable grounds existed for appeal Exceptions saved. Opinion filed. (See App. Vol. VI, No. 2 dated January 9, 1967) George S. Middleton Raymond A. Younger J. Thomas Guernsey George S. Middleton

Docket	Page	Case No.	STYLE	Kind
		321	Frieda C. Mc Allister Plaintiff - Appellee - vs - Owen Mc Allister Defendant - Appellant	
		312	Mary Ellen Elliott Plaintiff - Appellant - vs - Robert G. Elliott Defendant - Appellee	
		319	State of Ohio Plaintiff - Appellee - vs - Robert D. Heffner Defendant - Appellant	
		319	State of Ohio Plaintiff - Appellee - vs - Robert D. Heffner 844 North Broad Street Lancaster, Ohio Defendant - Appellant	

DATE	DISPOSITION
Jan 28, 1967	Time for filing brief of Plaintiff - Appellee extended to February 15, 1967 Raymond A. Younger J. Thomas Guernsey George S. Middleton Judges
Dec 30, 1965	Upon motion of Defendant - Appellee time for filing his answer brief extended for thirty days from filing of entry. Raymond Younger J. Thomas Guernsey George S. Middleton Judges
Mar 9, 1967	Court finds error prejudicial to the Defendant - Appellant in that the court charged the jury that the State must prove that the defendant failed, neglected or refused to provide said minor child with the necessary or proper home, care, food & clothing, whereas the sections of the revised code as amended now limits the offense to "fail to provide such child with the necessary or proper home, care, food and clothing". Judgment reversed and cause remanded to the Common Pleas Court for re-trial. Costs to abide final determination. (Receipts) Saved. J. Thomas Guernsey George S. Middleton Raymond A. Younger Judges
Apr 22, 1967	Attorney's fees, David S. Allen, on appeal allowed in the amount of \$225.00 Pursuant to revised Code Section 2941.51 J. Thomas Guernsey George S. Middleton Raymond A. Younger Judges

E. H. SELL & CO., COLUMBUS, O. 14874

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