

**R E L E A S E**

**NOVEMBER 16, 2001**

**ASHTABULA**

2001-A-0003 MARY BETH HOLZ, Plaintiff-Appellee v. HENRY VALENTINE HOLZ, II, Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [FORD] (O'NEILL) (GRENDALL)

**DOMESTIC RELATIONS/CHILD CUSTODY:**

If the residential parent intends to move to a residence other than the residence specified in the parenting order, the parent shall file a notice of intent to relocate with the court that issued the order. The trial court may schedule a hearing to determine if it is in the best interest of the child to revise the parenting schedule. The Ohio legislature has set forth factors to determine what is in the best interest of the child. The moving party bears the burden of proving if the requested relocation is in the best interest of the child.

**GEAUGA**

2001-G-2376 CARL MILSTEIN, Plaintiff v. SANDRA MILSTEIN, Defendant/Third Party Plaintiff-Appellant v. NEW YORK LIFE INSURANCE COMPANY, Third Party Defendant-Appellee.

This Court, *sua sponte*, dismisses the above-captioned appeal for failure to prosecute. See Judgment Entry.

2001-G-2391 IVAN J. MERVIS, Plaintiff-Appellant/Cross-Appellee v. HALLIE ANN MERVIS, Defendant-Appellee/Cross-Appellant.

Upon the joint request of Appellant and Appellee, the appeal and cross-appeal are hereby dismissed. See Judgment Entry.

**LAKE**

99-L-198 STATE OF OHIO, Plaintiff-Appellee v. DANIEL DOBIES, Defendant-Appellant.

Judgment reversed and remanded. Christley, J., dissents with Dissenting Opinion. See Opinions and Judgment Entry. [NADER] (O'NEILL) (CHRISTLEY)

**CRIMINAL LAW/EVIDENCE:**

An expert witness shall be provided to an indigent defendant at a sexual predator hearing if the trial court determines, within its sound discretion, that such services are reasonably necessary to determine whether the offender is likely to engage in the future in one or more sexually oriented offenses within the meaning of R.C. 2950.01(E).

The trial court abused its discretion in denying defendant's motion for a psychiatric evaluation when the only psychiatric evaluation was conducted six years before the sexual predator hearing was held and was a drug and alcohol assessment, not a sexual offender evaluation. Accordingly, an updated psychiatric evaluation was reasonably necessary to aid the trial court in determining the likelihood of defendant committing a sexually oriented offense in the future.

2000-L-186 STATE OF OHIO, Plaintiff-Appellee v. YALE E. STUBLE, Defendant-Appellant.

Judgment affirmed. See Opinion and Judgment Entry. [NADER] (CHRISTLEY) (GRENDALL)

**CRIMINAL LAW/SEARCH & SEIZURE:**

A police officer may, under the Fourth Amendment, open the door of a vehicle without permission when the officer reasonably believes that a person inside the vehicle is in need of immediate aid. The entry must, however, be strictly circumscribed by the exigencies which justified its initiation.

2001-L-152 WALTER KEN SMITH, Plaintiff-Appellee v. JOAN SMITH, Defendant-Appellant.

Upon the request of Appellant, the appeal is hereby dismissed. See Judgment Entry.

**TRUMBULL**

2001-T-0089 IN THE MATTER OF: THE GUARDIANSHIP OF MICHAEL J. JAVORNICKY, AN INCOMPETENT

This Court, *sua sponte*, dismisses the above-captioned appeal for failure to prosecute. See Judgment Entry.