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# Damages

Edgar I. King

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appeal eighteen years after the judgment appealed from was entered on the court's trial journal, the motion will be granted only when the refusal to grant the motion will result in a miscarriage of justice.<sup>57</sup>

The code<sup>58</sup> authorizes an appeal from a sentence imposed by the juvenile court for good cause shown. This is held to mean a satisfactory showing to the court of appeals that a substantial question relating to the trial and conviction of the defendant is raised incident to the appeal.<sup>59</sup>

In *State v. Nickles*<sup>60</sup> the supreme court declared that the code prescribing procedural requirements in criminal cases for perfecting appeals to the court of appeals, such as the filing of a notice of appeal with the court rendering the judgment or order appealed from, and filing a copy thereof in the appellate court, where leave to appeal must be obtained, are mandatory and jurisdictional.<sup>61</sup>

On the matter of the amount of evidence necessary to affirm a conviction, the court of appeals<sup>62</sup> held that a conviction could not be sustained when the evidence at most indicated only a bare suspicion of guilt.

MAURICE S. CULP

## DAMAGES

As is usual, most of the references of the appellate courts to the law of damages during the past year have consisted of terse statements that the award made in the trial court was not excessive. Only two cases have been reported during the past year which are worthy of special note.

*Accurate Die Casting Co. v. Cleveland*<sup>1</sup> was an action for negligent construction of sewers which resulted in the flooding of the plaintiff's plant during a time of heavy rainfall. The defendant in attacking the amount of damages asked by the plaintiff claimed that the latter had aggravated the damages by using its high-priced skilled employees in cleaning up the damage. The court rejected this argument saying: "The machinery, equip-

<sup>57</sup> *State v. Beard*, 115 N.E.2d 471 (Ohio App. 1952).

<sup>58</sup> OHIO REV. CODE § 2151.52 (OHIO GEN. CODE § 1639-51).

<sup>59</sup> *State ex rel. Meng v. Todaro*, 92 Ohio App. 247, 109 N.E.2d 669 (1952).

<sup>60</sup> 159 Ohio St. 353, 112 N.E.2d 531 (1953). See also *State v. Johannsen*, 93 Ohio App. 453, 109 N.E.2d 690 (1952), on the matter of the mandatory character of the appellate statutes with reference to timeliness.

<sup>61</sup> Attention should be called to the fact that the supreme court, in ruling on the mandatory and jurisdictional character of the filing of the notice of appeal and a copy with the appellate court, specifically modified its previous decision in paragraph five of the syllabus in *State v. Edwards*, 157 Ohio St. 175, 105 N.E.2d 259 (1952).

<sup>62</sup> *State v. Hansen*, 113 N.E.2d 99 (Ohio App. 1953).