

Appellate Court Decisions - Week of 1/12/15

First Appellate District of Ohio

State v. Bates, 2015-Ohio-116

Evidence: R.C. 2941.25: Robbery: CCW: Merger

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-140033_01162015.pdf

Summary from the First District:

“Defendant did not demonstrate plain error in the admission of other-acts evidence where defendant did not show that the outcome of the trial would have been different but for the trial court’s allegedly improper actions.

“Defendant’s convictions for aggravated robbery, having a weapon while under a disability and improperly handling a firearm in a vehicle were based on sufficient evidence and were not against the weight of the evidence where the evidence showed that defendant, who had previously been convicted of felony robbery, set up and provided the guns for the aggravated robbery of a police confidential informant.

“Defendant’s conviction for carrying a concealed weapon was not based on sufficient evidence, because there was no evidence presented that the weapon was not discernible by ordinary observation where the police officer testified that he saw the gun as he approached defendant’s car and that the gun went ‘across the dashboard and then down behind the steering wheel.’”

“The trial court did not err in failing to merge defendant’s convictions: the having-weapons-under-a-disability offense was of a dissimilar import from the other offenses because that statute manifests a legislative purpose to punish the act of possessing a firearm while under a disability separately from any offense committed with a firearm.”

Second Appellate District of Ohio

State v. Millerton, 2015-Ohio-34

Motion to Suppress: Search

Full Decision: <http://www.supremecourt.ohio.gov/rod/docs/pdf/2/2015/2015-ohio-34.pdf>

The trial court did not err in granting Appellee's motion to suppress where Appellee was seized and subjected to a pat down solely because of the high rate of criminal activity in the area. It wasn't decided, but Appellee may have been jaywalking, which is why he was stopped. There was nothing about his appearance or actions, however, to indicate he had a weapon.

Third Appellate District of Ohio

Nothing new.

Fourth Appellate District of Ohio

Nothing new.

Fifth Appellate District of Ohio

State v. Wells, 2015-Ohio-39

Sentencing: Calculation: Post-Release Control

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/5/2015/2015-ohio-39.pdf>

When sentencing a defendant for a violation of post-release control, the time remaining on the defendant's post-release control sanction should be calculated from the date of sentencing, not the date of the offense, because the defendant remains on post-release control while awaiting sentencing.

Sixth Appellate District of Ohio

Nothing new.

Seventh Appellate District of Ohio

Nothing new.

Eighth Appellate District of Ohio

Rocky River v. Brenner, 2014-Ohio-103

OVI: Suppression

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2015/2015-ohio-103.pdf>

The trial court erred in denying Appellant's motion to suppress the results of his Intoxilyzer 8000 breath test where none of the officers who testified at the hearing were involved in the actual testing and two were not even certified to operate the machine.

State v. Hood, 2015-Ohio-102

Search: Motion to Suppress

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2015/2015-ohio-102.pdf>

The trial court did not err in granting Appellee's motion to suppress the weapon and ammunition found on his person where the trial court found that a reasonable person would not have felt free to leave a situation in which he and the group of people he was with were surrounded by four police cars and nine police officers, some of whom at some point in the interaction drew their firearms and pointed them at the group. In other words, the encounter was not consensual.

Ninth Appellate District of Ohio

Nothing new.

Tenth Appellate District of Ohio

Nothing new.

Eleventh Appellate District of Ohio

Nothing new.

Twelfth Appellate District of Ohio

Nothing new.

Supreme Court of Ohio

Nothing new.

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

Nothing new.