

Appellate Court Decisions - Week of 1/16/17

First Appellate District of Ohio

Nothing to report.

Second Appellate District of Ohio

State v. Muncy, 2017-Ohio-121

Search: Motion to Suppress

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2017/2017-Ohio-121.pdf>

Summary from the Second District: “The trial court did not err in sustaining the defendant’s motion to suppress evidence on the basis that his consent to an officer’s repeated requests to turn over a key to a locked desk drawer where drugs were found was not proven to be voluntary. The record supports a finding that, under the totality of the circumstances, the repeated requests were coercive, rendering the defendant’s acquiescence involuntary. Judgment affirmed.”

State v. Clark, 2017-Ohio-120

Post-Conviction Relief: R.C. 2953.21: Crim.R. 33

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2017/2017-Ohio-120.pdf>

Summary from the Second District: “The trial court erred in failing to review Appellant’s Crim.R. 33 motion for new trial as a petition for postconviction relief. Appellant’s Crim.R. 33 motion was clearly an improper mechanism to challenge his conviction that was based upon an Alford plea of guilty, and Appellant specifically requested the trial court to consider his motion as a petition for postconviction relief under R.C. 2953.21(A) if he was barred from relief under Crim.R. 33. In addition, Appellant’s motion is more appropriately reviewed as a petition for postconviction relief given that it attempts to vacate his conviction and sentence based on an alleged constitutional violation involving Brady material that relied on evidence outside the record. Judgment reversed and remanded for further proceedings.”

State v. Brewer, 2017-Ohio-119

Sentencing: Consecutive Sentences

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2017/2017-Ohio-119.pdf>

Summary from the Second District: “The record clearly and convincingly does not support the trial court’s consecutive-sentence finding under R.C. 2929.14(C)(4)(c) that the offender’s history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the defendant. The record does not contain any information regarding Defendant’s criminal history. Sentence vacated and remanded for resentencing.”

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

State v. Zeigler, 2016-Ohio-8370

Search: Suppression

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2016/2016-Ohio-8370.pdf>

Appellant was a passenger in a vehicle involved in a single-vehicle accident. The driver had to be airlifted to the hospital and the vehicle had to be towed. The trooper conducted an inventory search of the vehicle prior to it being towed. Inside the vehicle was Appellant’s backpack, which Appellant asked a firefighter to retrieve for him. The trooper, however, would not return the backpack before conducting an inventory search of it. Inside several items of contraband were located.

The Fifth District held that the trial court did not err in granting Appellant’s motion to suppress the search of his backpack. Because the state troopers have a policy of not conducting inventory searches when the owner of an item is present and able to assume control of the property, the backpack did

not need to be searched as part of the vehicle's inventory. The trooper had no reason to believe the backpack contained contraband or that the backpack needed to be searched for the trooper's protection.

State v. Zollinger, 2016-Ohio-8369

Sealing Records

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2016/2016-Ohio-8369.pdf>

The trial court erred in overruling Appellant's motion to seal his dismissed sexual battery indictment from 2010. "[T]he trial court's combined failure to hold a specific hearing under R.C. 2953.52(B) * * * and the court's improper application of R.C. 2953.36 to block appellant's request to seal the dismissed indictment" warrants reversal and remand for a hearing.

In re T.W., 2016-Ohio-8371

Plea: Juvenile Delinquency

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2016/2016-Ohio-8371.pdf>

Appellant's plea of true to a probation violation was not knowing, voluntary and intelligent. "[T]he court failed to inform appellant of the probation rule he was alleged to have violated or of the conduct underlying the complaint to revoke his probation. The record does not demonstrate that appellant was subjectively aware of the substance of the complaint or the nature of the allegations. While counsel represented that she had a chance to speak to appellant about the motion, when the court asked appellant if he understood the possible punishments that could result from the probation violation, he responded that he did not. * * * The record does not demonstrate that the court substantially complied with Juv.R. 29(D) in accepting appellant's admission."

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

State v. Morris, 2016-Ohio-8325

Obstructing Official Business: Sufficiency

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2016/2016-Ohio-8325.pdf>

Summary from the Eighth District: “Appellant's conviction of obstructing official business is supported by insufficient evidence and therefore vacated. The trial testimony does not reflect that appellant, while imprudently disrespectful and unaccommodating toward the officers, engaged in an affirmative act that satisfied the statutorily enumerated elements of the offense of obstructing official business. Appellant's exasperation and angry state of mind and resultant uncooperative behavior no doubt rendered the police officers' performance of their duty more arduous and unpleasant. The courts, however, have not interpreted the obstructing official business statute to criminalize uncouth, uncooperative conduct such as displayed by appellant.”

State v. Dorsey, 2016-Ohio-8315

Sentencing: Community Control

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2016/2016-Ohio-8315.pdf>

Summary from the Eighth District: “Trial court did not abuse its discretion in forbidding appellant from using alcohol or entering any establishment where alcohol is served, sold or used as part of the conditions of his community control sanctions because the condition was reasonably related to rehabilitating appellant, had some relationship to his offense and was related to future criminality. However, the trial court's condition that barred appellant from associating with any persons with a criminal record was overly broad and an abuse of discretion.”

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

In re D.C., 2017-Ohio-114

Delinquency: Dismissal

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf10/2017/2017-Ohio-114.pdf>

The trial court did not err when it concluded the Due Process Clause and fundamental fairness required the dismissal of two of the four counts contained in Appellee's juvenile complaint. This is an interesting case that merits a read. The gist of it is that Appellee pleaded guilty to three crimes in common pleas court that he actually committed as a juvenile, and those cases were never bound over from juvenile court. He successfully moved to withdraw those guilty pleas eight years later. The state then filed a four-count complaint in juvenile court. The trial court dismissed two of the complaints on the grounds that it was fundamentally unfair to ignore the fact that Appellee had already served seven years in prison on the same alleged conduct.

Eleventh Appellate District of Ohio

Nothing to report.

Twelfth Appellate District of Ohio

Nothing to report.

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.