

Appellate Court Decisions - Week of 1/20/14

First Appellate District of Ohio

State v. Bishop, 2014-Ohio-173

Criminal Procedure: Crim.R. 32.1 Motion to Withdraw No-Contest Plea

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-130074_01222014.pdf

Summary from the First District:

“The municipal court abused its discretion in granting defendant’s Crim.R. 32.1 motion to withdraw his no-contest plea on the ground that the plea had been the unintelligent product of his counsel’s ineffectiveness in advising him concerning the immigration consequences of his conviction: under *Padilla v. Kentucky*, 559 U.S. 356, 130 S.Ct. 1473, 176 L.Ed.2d 284 (2010), counsel was constitutionally deficient in advising defendant that deportation was possible when it was expressly mandated; but the rule of *Padilla* is not retroactive, and defendant’s 2006 conviction was final before *Padilla* was decided.”

In Re: A.C., 2014-Ohio-174

Delinquency: Discovery

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-130416_01222014.pdf

Summary from the First District:

“The trial court erred in ordering the state to produce an arrest and investigation report Form 527(b) to the court for an in camera inspection and in preventing the state from using material found in the form in a probable-cause hearing for a bindover proceeding: the report was not discoverable under Juv.R. 24, and the defendant had made no specific showing that the state had withheld any exculpatory evidence in the report.”

In Re: R.W., 2014-Ohio-175

Delinquency: Discovery: Procedure

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-130151_01222014.pdf

Summary from the First District:

“Prior to a probable-cause bindover hearing, the state must provide to a juvenile upon request only (1) any *Brady* materials in its possession and (2) the evidence that the state intends to use at the probable-cause hearing; and the trial court erred in ordering the state to produce arrest and investigation report Form 527(b) and Form 301 because the documents did not fall into either category.

“The trial court erred in dismissing the case against a juvenile because a witness for the state was unavailable for the bindover hearing where the state had not sought a prior continuance, it had requested the continuance two weeks before the hearing, the state did not contribute to the delay, and there was no demonstration of prejudice to the parties, witnesses, or the court.”

Second Appellate District of Ohio

State v. Gibson, 2014-Ohio-136

Sentencing: Merger

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/2/2014/2014-ohio-136.pdf>

The trial court erred in failing to aggregate the defendant’s eight forgery offenses (R.C. 2913.31(A)(2), (C)(1)(b)), but did not err by not aggregating them with her theft from an elderly person or disabled adult offense (R.C. 2913.02(A)(1), (B)(3)). Furthermore, there was no plain error in failing to aggregate the forgery offenses where the sentences were run concurrently, and had they been aggregated, a longer sentence may have been imposed.

Third Appellate District of Ohio

Nothing new.

Fourth Appellate District of Ohio

Nothing new.

Fifth Appellate District of Ohio

Nothing new.

Sixth Appellate District of Ohio

Nothing new.

Seventh Appellate District of Ohio

Nothing new.

Eighth Appellate District of Ohio

Nothing new.

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

State v. Watkins, 2014-Ohio-177

Speedy Trial

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/12/2014/2014-ohio-177.pdf>

Summary from Judge Rodenberg:

“The trial court erred by overruling appellant’s motion to dismiss felony drug charges against him on speedy trial grounds. While the state was required to bring appellant to trial within 90 days of his arrest under R.C. 2945.71(C) and (E), it did not bring him to trial until 194 days later. While 48 days of the delay were chargeable to appellant under R.C. 2945.72(H) as a result of his filing a motion to suppress evidence gathered against

him, the remainder of the delay was chargeable to the state because (1) there is no evidence in the record that appellant or his counsel ever made an express, written waiver of appellant's constitutional or statutory speedy trial rights, or that they waived those rights in open court; (2) the Thanksgiving, Christmas and New Year holidays, standing alone, cannot justify the substantial delay in bringing appellant to trial as the trial court would have been closed for only five or six days as a result of those holidays; (3) while R.C. 2945.72(H) provides that the time for bringing a defendant to trial can be extended by any continuance granted upon the accused's own motion, the trial court failed to state how much of the lengthy delay was attributable to the defense and how much was attributable to itself and the state; (4) the trial court failed to provide any details as to why it or the prosecutor needed the lengthy continuance, which, in turn, prevented the court of appeals from determining its reasonableness. Because appellant was not brought to trial within the time required by R.C. 2945.71 and 2945.72, he was entitled under R.C. 2945.73 to be discharged on the felony drug offenses for which he had been convicted."

Supreme Court of Ohio

Nothing new.

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

Nothing new.