

Appellate Court Decisions - Week of 1/30/17

First Appellate District of Ohio

Nothing to report.

Second Appellate District of Ohio

State v. Welch, 2017-Ohio-314

Sentencing: Credit

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2017/2017-Ohio-314.pdf>

The trial court erred in failing to reduce Appellant's prison term it imposed for his post-release control violation by the 90 days he served as part of his Adult Parole Authority ("APA") sanction prison term. The 90 days he spent on home detention as part of the APA's sanction, however, did not count. See R.C. 2929.141(A)(1).

Third Appellate District of Ohio

Nothing to report

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

State v. Shannon, 2017-Ohio-31

Child Endangering: Sufficiency

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2017/2017-Ohio-31.pdf>

Appellant's conviction for child endangering under R.C. 2919.22(A) was based on insufficient evidence. Basically, all the state could prove was that the child in question had some troublesome bruises on her rear, which Appellant explained as the result of the child falling on to some "Mega Blocks." Any risk that existed by Appellant leaving the child in the care of a person she was not supposed to leave the child with was speculative, and

was insufficient to prove there was a strong possibility the child would be injured.

Sixth Appellate District of Ohio

Toledo v. Sklarov, 2017-Ohio-137

Speedy Trial

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2017/2017-Ohio-137.pdf>

In a fairly straightforward case, Appellant’s speedy trial rights were violated where she was not brought to trial within the required timeframe.

State v. Jones, 2017-Ohio-342

Juvenile Bindover

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2017/2017-Ohio-342.pdf>

“[T]he trial court committed plain error by failing to hold an amenability hearing prior to transferring appellant’s case from juvenile court to the general division in violation of [Appellant’s] constitutional due process and equal protection rights.”

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

State v. Saxon, 2017-Ohio-93

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-93.pdf>

Summary from the Eighth District: “Trial court’s imposition of sentence for the violation of community control sanctions was reversed. In accordance with R.C. 2929.15(B), a trial court lacks jurisdiction to impose additional

terms of community control after the final sentence unless it determines the defendant violated the terms of community control. A violation cannot be premised on additional terms the trial court was not authorized to impose.”

State v. Gibson, 2017-Ohio-102

Ineffective Assistance: Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-102.pdf>

Summary from the Eighth District: “Defendant waived the right to challenge the constitutionality of the search and seizure on appeal by failing to file a pretrial motion to suppress; counsel's failure to seek a waiver of costs based on defendant's indigency was deficient and prejudiced the defendant.”

State v. Linville, 2017-Ohio-101

Forfeiture

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-101.pdf>

Summary from the Eighth District: Appellant's counsel was not ineffective because he failed to object to a judge's opinion about appellant's blood alcohol level. The appellant failed to show that counsel's representative was deficient and that there was prejudice. The trial court cannot order a forfeiture of the appellant's vehicle because it was not stated in the indictment. “

State v. Jones, 2017-Ohio-288

Burglary: Weight of the Evidence

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-288.pdf>

Summary from the Eighth District: “Evidence was insufficient to support defendant's conviction for burglary under R.C. 2911.12(A)(2) where the state failed to demonstrate that the victim was likely to be present; evidence was sufficient to support conviction of lesser included offense of burglary under R.C. 2911.12(A)(3); convictions were not against the manifest weight

of the evidence; trial court properly imposed consecutive sentences where it made the appropriate factual findings under R.C. 2929.14(C)(4) and incorporated those findings in its journal entry of sentencing.”

State v. Floyd, 2017-Ohio-386

Evidence: Stipulation: *Creech*

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-386.pdf>

Summary from the Eighth District: “Where defendant signed a jury waiver in open court in the presence of his counsel and upon the court’s questioning, informed the court that he wished to waive a jury trial, the trial court’s colloquy was sufficient to establish that the defendant knowingly and voluntarily waived his right to a jury trial; defendant’s convictions were supported by sufficient evidence and were not against the manifest weight of the evidence where all four victims gave similar descriptions of the defendant, and when he was apprehended, he was driving a vehicle stolen from one of the victims and items stolen from an earlier victim were found in the glove compartment of the vehicle; where the defendant stipulated to his juvenile offenses that would establish a disability under R.C. 2923.13(A)(2), the trial court erred in allowing testimony regarding the defendant’s juvenile offenses and the admission of the juvenile court’s journal entries regarding those offenses.”

Ninth Appellate District of Ohio

Nothing to report.

Tenth Appellate District of Ohio

Nothing to report.

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.