

## **Appellate Court Decisions - Week of 1/8/18**

*Note: This is not a comprehensive list of every case released this week.*

### **First Appellate District of Ohio**

#### **State v. Bowers, 2018-Ohio-30**

##### **Sentencing**

##### **Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-30.pdf>

##### **Summary from the First District:**

“Where defendant was found guilty of raping a child, in violation of R.C. 2907.02(A)(1)(b), with the accompanying specification that the child was under ten years old, the trial court had three sentencing options according to the plain language of the relevant statutes: under R.C. 2907.02(B), the trial court could have imposed a sentence of life without parole; under R.C. 2971.03(B)(1)(b), a sentence of 15 years to life; and under R.C. 2971.03(B)(1)(c), a sentence of 25 years to life upon a finding by the court that the defendant had compelled his victim to submit by force. [*But see* DISSENT: The trial court’s finding of force unconstitutionally raised the mandatory minimum sentence from 15 years to life to 25 years to life.]”

“Judicial fact-finding that creates a middle sentencing option, i.e., one that does not raise the sentencing floor or ceiling, is constitutionally permissible and does not violate *Alleyne v. United States*, 570 U.S. 99, 133 S.Ct. 2151, 186 L.Ed.2d 314 (2013), or *Apprendi v. New Jersey*, 530 U.S. 466, 120 S.Ct. 2348, 147 L.Ed.2d 435 (2000). [*But see* DISSENT: Judicial fact-finding that raises the mandatory minimum sentence is unconstitutional; and where the jury found that the victim of defendant’s rape was under ten, but defendant was not charged with or found guilty by the jury of the use or threat of force, the trial court erred in increasing the minimum sentence to 25 years to life upon its finding that defendant had used force.]”

#### **State v. Slaughter, 2018-Ohio-105**

##### **Motion to Suppress: Traffic Stop**

##### **Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-105.pdf>

##### **Summary from the First District:**

“In a prosecution for driving under the influence of alcohol and a marked-lanes violation, the trial court did not err in overruling defendant’s motion to suppress evidence on the basis that the Ohio state highway patrol trooper had lacked probable cause or a reasonable and articulable suspicion to stop defendant’s vehicle where the trooper testified that he had witnessed a marked-lanes violation, which was not inconsistent with a video recording of the traffic stop taken from his cruiser camera, even though the marked-lanes violation was not visible on the video due to the glare of oncoming headlights.”

### **Second Appellate District of Ohio**

*Nothing to report.*

### **Third Appellate District of Ohio**

*Nothing to report.*

### **Fourth Appellate District of Ohio**

*Nothing to report.*

### **Fifth Appellate District of Ohio**

*Nothing to report.*

### **Sixth Appellate District of Ohio**

*Nothing to report.*

### **Seventh Appellate District of Ohio**

*Nothing to report.*

### **Eighth Appellate District of Ohio**

### **State v. Brown, 2018-Ohio-88**

**Sentencing**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2018/2018-Ohio-88.pdf>

**Summary from the Eighth District:**

“The trial court erred in imposing a term of imprisonment for the community control violation based on its failure to make the necessary advisements under R.C. 2929.19(B)(4). At the resentencing, the trial court must choose between the only options remaining under R.C. 2929.15(B): (1) impose a longer time under the same sanction or, (2) impose a more restrictive sanction.”

**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.*

**Supreme Court of the United States**

*Nothing to report.*