

Appellate Court Decisions - Week of 10/13/14

First Appellate District of Ohio

State v. Smith, 2014-Ohio-4548

Sentencing

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-130455_10152014.pdf

Summary from the First District:

“The trial court was without authority to impose a driver’s license suspension as part of a tampering-with-evidence sentence because no statute authorized that penalty for the offense.”

State v. Gerth, 2014-Ohio-4569

Sentencing

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/1/2014/2014-ohio-4569.pdf>

Summary from the First District:

“In a reopened appeal under App.R. 26(B), the defendant established that previous appellate counsel had been ineffective for failing to assert that the defendant’s two convictions for failing to stop after an accident under R.C. 4549.02 were allied offenses of similar import: the ‘unit of prosecution’ for failing to stop is the number of collisions rather than the number of persons involved in the collision, and in the case at bar, the convictions arose from one collision. Previous appellate counsel was ineffective for failing to assert that the trial court had not made the requisite findings for imposing consecutive sentences: although the trial court enumerated many aggravating factors at the sentencing hearing, the court did not make the findings required by R.C. 2929.14 and did not incorporate any findings into its sentencing entry. Previous appellate counsel was not ineffective for failing to assert that the trial court had erred in admitting the medical records of a victim of aggravated vehicular assault: the records were admissible under Evid.R. 803(6) and R.C. 2317.422, and their admission did not violate the defendant’s right of confrontation, as trial counsel had conceded that any testimonial statements had been redacted from the records.”

Second Appellate District of Ohio

Nothing new.

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

Lakewood v. Abdelhaq, 2014-Ohio-4572

Obstructing Official Business: Sufficiency

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2014/2014-ohio-4572.pdf>

Appellant's conviction for Obstructing Official Business was based on insufficient evidence where a tow truck driver and police officer claimed Appellant prevented them from towing his SUV that was blocking the road, but Appellant's own cell phone video showed he was actually off the street and behind a guardrail. Therefore, he committed no affirmative act to prevent the SUV from being towed.

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.