

Appellate Court Decisions - Week of 10/14/13

First Appellate District of Ohio

In Re: D.S., 2013-Ohio-4565

Juvenile: Bindover: Probable Cause: Evidence

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-130094_10162013.pdf

Summary from the First District:

The juvenile court erred as a matter of law in dismissing the complaint against the juvenile on the basis that the state had presented insufficient evidence to establish probable cause to support a charge that, had it been committed by an adult, would have constituted the crime of aggravated robbery with an accompanying firearm specification where the victim identified the juvenile as one of the boys who had robbed him, where the investigating police officer testified that a co-defendant had confessed to the robbery, had implicated the juvenile, and had claimed that the juvenile had supplied the gun used in the robbery, and where the state presented evidence that the juvenile had confessed to stealing the victim's money.

Ninth Appellate District of Ohio

State v. Stambaugh, 2013-Ohio-4558

Sentencing: Increasing Sentence After Judgment

Full Decision: <http://www.supremecourt.ohio.gov/rod/docs/pdf/9/2013/2013-ohio-4558.pdf>

The trial court sentenced the defendant to five years of community control and five-and-one-half months of jail with credit for five-and-one-half months served. It also told defendant that any further violation of his sentence would result in a one-year prison term. The defendant then violated his community control and was sentenced to nine months in prison. A month later, the trial court held another hearing pursuant to a request from the Bureau of Sentence Computation for clarification regarding the amount of jail-time credit. After that hearing, the trial court increased the prison sentence to one year. The Ninth District held that increasing the sentence was error because the original nine-month judgment was a final order, and the trial court did not have authority to modify the sentence.

Supreme Court of Ohio

Schussheim v. Schussheim, 2013-Ohio-4529

Expungement: Civil Protection Order

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/o/2013/2013-ohio-4529.pdf>

“Courts have the inherent authority to expunge and seal records when a case involves unusual and exceptional circumstances and when the interests of the party seeking expungement outweigh the legitimate need of the government to maintain records. Such unusual and exceptional circumstances appear to exist in this case, as the complainant who petitioned the court for an ex parte [civil protection order (CPO)] later moved to dissolve the CPO and submitted an affidavit that expungement was in the best interest of herself and her children.”

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

Nothing new.