

Appellate Court Decisions - Week of 10/23/17

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

First Appellate District of Ohio

Nothing to report.

Second Appellate District of Ohio

State v. Christian, 2017-Ohio-8249

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2017/2017-Ohio-8249.pdf>

Summary from the Second District: “Trial court erred in its resentencing of appellant on Count II. Count II was reduced by operation of law from a felony of the third degree to a felony of the fourth degree; as a result, upon resentencing, the trial court reduced the sentence for Count II from 36 months to 12 months. The trial court also ordered Count II to be served consecutively to Count V, when it originally had been ordered to be served concurrently. The new sentence on Count II is contrary to law, as appellant has already served more than 12 months on Count II. Therefore, the trial court was without authority to order that Count II, for which the 12-month sentence had already been completed, be served consecutively to Count V. Judgment reversed and cause remanded for proceedings consistent with this opinion.”

In other words, the trial court erred when, upon resentencing appellant, it increased a sentence that had already been completed.

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

State v. Reed, 2017-Ohio-8237

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2017/2017-Ohio-8237.pdf>

The trial court erred in sentencing appellant to a prison term for violating the terms of his fifth-degree felony diversion program. It was not a violation of his bond (which was an appearance bond) to commit a new crime – it was merely a violation of the diversion program’s terms, which is not an exception to the community control requirement in R.C. 2929.13(B)(1)(a).

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

State v. Heard, 2017-Ohio-8310

Plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-8310.pdf>

Appellant’s plea was not voluntary where the judge created and offered the plea to appellant on his own, without the state’s participation. The judge made it abundantly clear he believed appellant was guilty and believed he deserved life in prison, and would sentence him in that manner if he went to trial and lost. Frankly, this is clear as a case like this gets.

Ninth Appellate District of Ohio

State v. Maciel-Valdez, 2017-Ohio-8266

Court Costs

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2017/2017-Ohio-8266.pdf>

The trial court erred in denying appellant's motions to return the money the prison collected from his account despite the fact that the trial court did not order him to pay court costs or fines.

State v. High, 2017-Ohio-8264

Motion to Suppress

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2017/2017-Ohio-8264.pdf>

The trial court did not err in granting appellee's motion to suppress where the police officer lacked a reasonable suspicion to conduct field sobriety tests. The officer noticed an odor of alcohol of an unspecified strength and admitted to consuming a few beers with dinner (this occurred around midnight), but there were no other indicia of intoxication.

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

In re D.S., 2017-Ohio-8289

Juvenile Rule 9(A): Dismissal

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2017/2017-Ohio-8289.pdf>

D.S. was accused of engaging in acts of sexual contact with another boy. Both boys were younger than 13. The Supreme Court held "that the juvenile court did not abuse its discretion by dismissing the matter pursuant to Juv.R. 9(A). The juvenile court was aware of the relative ages of the children involved in the charged incidents, was aware that there was no

allegation of force or threat of force, and was aware of the general nature of the sex acts alleged in the complaint, as developed in the record up to that point through the parties' filings and the transcript of the hearing held before the magistrate. The court considered these facts, reasoning through and balancing many of the same interests we considered in M.D. We cannot say that the order to dismiss under Juv.R. 9(A) was an abuse of discretion. As the state argued, a full formal court proceeding would no doubt have developed a more detailed factual record upon which the juvenile court might have relied in determining the proper outcome in this case. But that is precisely the kind of proceeding that Juv.R. 9(A) empowers a juvenile court to avoid—a review of the details of a sexual interaction between children under the age of 13. A juvenile court's primary concern is not always to determine culpability for acts that would be crimes if committed by an adult. As we have recognized in the past, holding a formal proceeding to determine whether a child was motivated by innocent curiosity or by culpable sexual gratification may be as bad or worse for the children involved—and for society—as was the act itself. See M.D., 38 Ohio St.3d at 154, 527 N.E.2d 286. The juvenile court must exercise its discretion in deciding the best course, and we owe substantial deference to the court's decision.”

***State v. Batista*, 2017-Ohio-8304**

R.C. 2903.11(B)(1): Felonious Assault: HIV: Constitutionality

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2017/2017-Ohio-8304.pdf>

Syllabus of the Court: “Because R.C. 2903.11(B)(1) regulates conduct, not speech, it does not violate the First Amendment to the United States Constitution, and it is rationally related to the state’s legitimate interest in preventing the transmission of the human immunodeficiency virus to sexual partners who may not be aware of the risk and therefore does not violate the Equal Protection Clauses of either the United States or Ohio Constitutions.”

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.