

## Appellate Court Decisions - Week of 10/30/17

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

### First Appellate District of Ohio

#### **State v. Sims, 2017-Ohio-8379**

Jury Waiver.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2017/2017-Ohio-8379.pdf>

In conviction for driving under suspension in which defendant had filed a written demand for a jury trial, trial court did not err in not obtaining a written jury waiver before acceptance of a no contest plea; R.C. 2945.05 05 does not require a trial court to obtain a written jury demand before accepting a no contest plea, overruling *State v. Fish*, 104 Ohio App.3d 236, 661 N.E.2d 788 (1<sup>st</sup> Dist.1995).

#### **In re K.C., 2017-Ohio-8383**

Custody.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2017/2017-Ohio-8383.pdf>

In award of permanent custody of children to Hamilton County Department of Job and Family Services, mother has no standing to appeal denial of aunt's custody petition where aunt did not appeal such denial, and mother does not challenge termination of her own parental rights.

### 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

### ***State v. Overton, 2017-Ohio-8389***

Evidence.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2017/2017-Ohio-8389.pdf>

**Trial court erred by denying defendant's offer to stipulate to being under a disability and by admitting evidence of his prior conviction, Evid.R. 403(A) and *State v. Creech*.**

## Sixth Appellate District of Ohio

### ***State v. Williams, 2017-Ohio-8344***

Obstructing official business.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2017/2017-Ohio-8344.pdf>

**Conviction after no contest plea of obstructing official business, R.C. 2921.31(A) was error; facts contained in the complaint did not state an offense since defendant did not commit the required "overt act," but simply refused to respond to police questioning which cannot support the conviction.**

### ***State v. Walton, 2017-Ohio-8343***

Plea.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2017/2017-Ohio-8343.pdf>

**No contest pleas were not knowing or voluntary where trial court failed to inform defendant of the effect of the plea, as required by Crim.R.11(E).**

## Seventh Appellate District of Ohio

*Nothing to report.*

## Eighth Appellate District of Ohio

### ***State v. Weakley, 2017-Ohio-8404***

Ineffective assistance of counsel.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-8404.pdf>

Defendant's trial counsel was ineffective in failing to correct prosecutor's misstatement of law regarding judicial release that led to defendant's rejection of favorable plea deal and imposition of a longer sentence after a trial and other cumulative errors; therefore, as defendant was denied his right to a fair trial, case remanded with instructions for the trial court to order prosecutor to reoffer its original plea deal to defendant or for a new trial.

### ***State v. Meadows, 2017-Ohio-8407***

Plea.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-8407.pdf>

Defendant's due process rights were violated where the trial court accepted defendant's guilty pleas without advising him of his constitutional rights and failed to comply with Crim.R.11.

### ***State v. Garner, 2017-Ohio-8405***

Sentencing.

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-8405.pdf>

Conviction for sex offenses remanded for resentencing where trial court erred by failing to provide defendant an opportunity to exercise his right of allocution and failed to make any reference to relevant statutory sentencing considerations, R.C. 2929.11 and 2929.12.

## 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**

***Clark v. Adult Parole Authority, 2017-Ohio-8391***

**Kidnapping.**

**Full Decision:**

**<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2017/2017-Ohio-8391.pdf>**

**As two separately issued sanctions imposed for parole violations were not criminal punishments, the Double Jeopardy Clauses were not violated by such sanctions; also, allegations of due process and equal protection violations are without merit since defendant did not receive multiple punishments and failed to demonstrate any constitutional injury.**

**Sixth Circuit Court of Appeals**

*Nothing to report.*

**Supreme Court of the United States**

*Nothing to report.*