

## Appellate Court Decisions - Week of 11/16/15

### First Appellate District of Ohio

**State v. Rosemond, 2015-Ohio-XXXX(Not on Supreme Court site)**

**OVI: Complaint: Amendment**

**Full Decision:** [http://www.hamilton-co.org/appealscourt/docs/decisions/C-150199\\_11182015.pdf](http://www.hamilton-co.org/appealscourt/docs/decisions/C-150199_11182015.pdf)

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

“The trial court erred in granting the state’s motion to amend the complaint from a violation of R.C. 4511.19(A)(1)(b) to a violation of R.C. 4511.19(A)(1)(h), because the amendment changed the penalty for the offense, which constituted a change in the name or identity of the crime charged.”

**In re: D.L., 2015-Ohio-4747**

**Delinquency: Theft: Sufficiency**

**Full Decision:**  
<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2015/2015-Ohio-4747.pdf>

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

“The trial court erred in adjudicating the juvenile delinquent for theft as a fourth-degree felony where the state failed to present sufficient evidence showing that the value of the property stolen was between \$7,500 and \$150,000.

“Where the state presented evidence showing that the value of the property stolen was between \$1,000 and \$7,500, the trial court should have adjudicated the juvenile delinquent for theft as a fifth-degree felony.”

### Second Appellate District of Ohio

*Nothing new.*

### Third Appellate District of Ohio

**State v. Horvath, 2015-Ohio-4729**

**Plea: R.C. 2937.07**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/3/2015/2015-Ohio-4729.pdf>

**The trial court erred in making a finding of guilt after appellant's no contest plea to theft because there was no explanation of circumstances as required by R.C. 2937.07. In other words, no statement of facts supporting each essential element of the offense was put into the record prior to the guilty finding. The evidence was therefore insufficient, double jeopardy attached, and appellant's conviction was reversed and he was discharged.**

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

**State v. Lemaster, 2015-Ohio-4734**

**Sentencing**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/4/2015/2015-Ohio-4734.pdf>

#### **Summary from the Fourth District:**

“Trial court had jurisdiction to re-sentence an appellant when the trial court's original sentence was a final appealable order pursuant to R.C. 2505.02; Imposing an additional three year prison term on re-sentencing was punishment for the appellant exercising his right to appeal and warranted reversal to either allow appellant to withdraw his guilty plea or to enforce the previous plea agreement.”

### **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**

**State v. McCarty, 2015-Ohio-4695**

**Sentencing: Allied Offenses: Burglary: Vandalism**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2015/2015-Ohio-4695.pdf>

**The trial court committed plain error in failing to merge appellant's convictions for vandalism and burglary as allied offenses of similar import where the convictions were both based on his act of breaking down his ex-girlfriend's door, entering her house, and assaulting her new boyfriend.**

***In re: C.A., 2015-Ohio-4768***

**Delinquency: Rape: Records**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2015/2015-Ohio-4768.pdf>

**Summary from the Eighth District:**

“Defendant’s delinquency adjudication by reason of rape under R.C. 2907.02(A)(1)(b) was supported by sufficient evidence and was not against the manifest weight of the evidence. Juvenile court did not abuse its discretion in admitting evidence of victim’s statements to sexual assault nurse examiner regarding how and when she was allegedly raped and who raped her under Evid.R. 803(4). Although certain of the details the victim provided regarding the alleged rape extended beyond what was needed for medical treatment and diagnosis and, therefore, did not fall within the Evid.R. 803(4) hearsay exception, juvenile court’s admission of those statements was harmless error. Where defendant demonstrated that alleged victim likely made statements to Cuyahoga County Division of Children and Family Services (‘CCDCFS’) regarding alleged rape, juvenile court abused its discretion in granting CCDCFS’s motion to quash without first reviewing the CCDCFS records in camera to determine if they contained evidence material to defendant’s defense. Case remanded for juvenile court to examine the CCDCFS records in camera and determine if the records contain evidence material to C.A.’s defense.”

**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.*