

## **Appellate Court Decisions - Week of 11/2/15**

### **First Appellate District of Ohio**

#### **State v. Salaam, 2015-Ohio-4552**

**Evidence: Evid.R. 1002: Jail Calls**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2015/2015-Ohio-4552.pdf>

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

“Where the state had recordings of defendant’s jail telephone conversations with the victim of his domestic violence and could have admitted them into evidence, but failed to properly authenticate them, the trial court erred in allowing the police officer to testify about the content of the recordings, because the original recordings were required under Evid.R. 1002 to prove the contents of the jail telephone conversations.

“The trial court’s error in allowing the police officer to testify about the contents of the recordings of defendant’s jail telephone calls was harmless, because the record contained other evidence sufficient to support the defendant’s conviction for domestic violence and the outcome of the proceedings would not have been different had the improperly admitted evidence been excised from the record.

“Because the defendant was at fault in creating the violent situation, the trial court did not err in finding that the defendant had not acted in self-defense.”

### **Second Appellate District of Ohio**

#### **State v. Jones, 2015-Ohio-4512**

**Sentencing: Not Guilty By Reason of Insanity: R.C. 2945.40**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/2/2015/2015-Ohio-4512.pdf>

#### **Summary from the Second District:**

“Trial court erred in concluding that defendant’s term of commitment pursuant to R.C. 2945.40 was tolled while he was incarcerated on subsequent unrelated charges. Under the facts of this case, the final termination of defendant’s commitment and the trial court’s jurisdiction occurred after 25 years, the expiration of the maximum prison term or term of imprisonment that he could have received if convicted of aggravated robbery,

the charge for which he was found not guilty by reason of insanity. Defendant was not found to be no longer a mentally ill person subject to hospitalization by court order when he was determined to be competent and sentenced to prison in the subsequent unrelated case. Judgment reversed and case remanded for an order terminating Jones's commitment pursuant to R.C. 2945.40. Mandate stayed for 15 days to provide the trial court or the prosecutor an opportunity to file an affidavit for civil commitment pursuant to R.C. Chapter 5122. (Hall, J., concurring.)”

### **Third Appellate District of Ohio**

**State v. Feemorlu, 2015-Ohio-4528**

**Counsel: Motion to Withdraw**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/3/2015/2015-Ohio-4528.pdf>

**Summary from the Third District:**

“The trial court's judgment is reversed where the record lacks proof that the affirmative duty to properly inquire into the potential conflict of interest was fulfilled when the trial court denied attorney's motion to withdraw as counsel.”

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

*Nothing new.*

### **Fifth Appellate District of Ohio**

**State v. Carothers, 2015-Ohio-4569**

**Motion to Suppress**

**Full Decision:**

<http://www.supremecourt.ohio.gov/rod/docs/pdf/5/2015/2015-Ohio-4569.pdf>

**The trial court did not err in granting appellee's motion to suppress the narcotics found in the bottom of his shoe where the facts demonstrated the police officer ordered appellee to remove his shoe, and appellee did not consent to the search.**

### **Sixth Appellate District of Ohio**

*Nothing new.*

## Seventh Appellate District of Ohio

*Nothing new.*

## Eighth Appellate District of Ohio

**State v. Price, 2015-Ohio-4592**

Sentencing: Court Costs: R.C. 2947.23(C)

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2015/2015-Ohio-4592.pdf>

The trial court did not err in granting appellee's motion to waive his court costs under R.C. 2947.23(C) despite the fact that the statute amendment was enacted after appellee's sentencing. Because the statute states that a court retains jurisdiction to waive, suspend, or modify court costs "at the time of sentencing or at any time thereafter," the statute is prospective, not retroactive. In other words, because a defendant can seek a waiver of costs at any time, there is no retroactive application of the statute.

## Ninth Appellate District of Ohio

*Nothing new.*

## Tenth Appellate District of Ohio

*Nothing new.*

## Eleventh Appellate District of Ohio

**State v. Baird, 2015-Ohio-4539**

Evidence: Prior Convictions

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/11/2015/2015-Ohio-4539.pdf>

Appellant's OVI conviction was reversed because it was error to admit appellant's prior OVI conviction into evidence when he was willing to stipulate he had a prior conviction, and the admission was unfairly prejudicial because it gave the jury an improper basis for the verdict.

**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.*