

Appellate Court Decisions - Week of 11/21/16

First Appellate District of Ohio

State v. Reece, 2016-Ohio-7858

Jurisdiction: Sex Offenses: Registration: Res Judicata

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2016/2016-Ohio-7858.pdf>

Summary from the First District:

“Defendant had no duty under former R.C. 2950.04(A)(1)(a) to register as a sex offender, when the 1993 judgment convicting him of gross sexual imposition did not impose a prison sentence, and therefore, he was not serving a sentence for a sexually oriented offense on or after July 1, 1997, when former R.C. Chapter 2950, Megan’s Law, was enacted, even though he was, after July 1, 1997, serving time on an unrelated aggravated-burglary offense.

“The common pleas court had no jurisdiction to rule upon, and the court of appeals had no jurisdiction to review the common pleas court’s entry overruling, defendant’s 2006 ‘motion,’ filed in his 1993 gross-sexual-imposition case, challenging, under the Ohio Supreme Court’s 2005 decision in *State v. Champion*, 106 Ohio St.3d 120, 2005-Ohio-4098, 832 N.E.2d 718, his duty to register as a sex offender.

“The trial court erred in applying the doctrine of res judicata to overrule defendant’s motion to dismiss his 2015 indictment for failing to verify his current address: the common pleas court had no jurisdiction to entertain defendant’s 2006 ‘motion’ challenging his duty to register as a sex offender; therefore, the court’s entry overruling that motion was not res judicata on the issue of whether defendant had a duty to register as a sex offender.”

State v. Grant, 2016-Ohio-7857

Jurisdiction: Community Control Revocation: Mootness: Sentence

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2016/2016-Ohio-7857.pdf>

Summary from the First District:

“The municipal court was not demonstrably without jurisdiction to revoke defendant’s community control: the appeals court must presume the regularity of the proceedings

below, when defendant was a concurrent-supervision offender pursuant to R.C. 2951.022, and the record does not demonstrate that a longer sentence was imposed for his felony conviction.

“An assignment of error challenging the revocation of defendant’s community control and the imposition of a sentence of incarceration was moot, despite defendant’s motion to stay his sentence, because defendant had completed the sentence, and thus the appeals court could not provide him with any meaningful relief.”

Second Appellate District of Ohio

State v. Reece, 2016-Ohio-7805

Motion to Suppress

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2016/2016-Ohio-7805.pdf>

The trial court did not err in granting appellee’s motion to suppress. The police officer did not have a reasonable belief appellee was armed so as to justify a pat-down search for weapons. When appellee went for his wallet as ordered, he also moved his opposite arm across his waist. The trial court found appellee’s movement was natural and not a furtive movement.

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

State v. Williams, 2016-Ohio-7782

Plea: Blanket Policy

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2016/2016-Ohio-7782.pdf>

The trial court erred when it did not allow Appellant to plead no contest as a matter of policy rather than based on the facts and circumstances of Appellee's case.

State v. Williams, 2016-Ohio-7777

Plea: No Contest: Elements

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2016/2016-Ohio-7777.pdf>

Appellant's theft conviction is reversed and vacated where at his no contest plea the state's recitation of the facts eliminated the element of "without consent" necessary for a theft conviction under R.C. 2913.02(A)(1).

The fact that an attorney caught this, appealed it, and won is absolutely amazing.

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

State v. Kona, 2016-Ohio-7796

Sentencing: Pretrial Diversion: Noncitizen: Immigration: R.C. 2943.031(A)

Full Decision: 2016

Summary from the Court: “When in accordance with the requirements of a pretrial diversion program a noncitizen defendant admits sufficient facts to warrant a finding of guilt, the trial court must provide the defendant the advisement contained in R.C. 2943.031(A) that the admission of guilty may affect his or her immigration status.”

Sixth Circuit Court of Appeals

Nothing to report.