

## Appellate Court Decisions - Week of 11/24/14

### First Appellate District of Ohio

*Nothing new.*

### Second Appellate District of Ohio

*Nothing new.*

### Third Appellate District of Ohio

**State v. Shuttlesworth, 2014-Ohio-5206**

Search: Motion to Suppress

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/3/2014/2014-ohio-5206.pdf>

The trial court did not err in granting Appellee's motion to suppress the 1,066 Oxycodone pills found in his coat pocket. The police officers lacked probable cause to search Appellee where one officer's testimony that he smelled a very strong odor of raw marijuana on Appellee was not credible because it was a traffic stop, and there was a very strong wind that day – so strong the officer had to brace himself on the car.

### Fourth Appellate District of Ohio

*Nothing new.*

### 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

*Nothing new.*

## 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

**State v. Ware, 2014-Ohio-5201 EXTREMELY IMPORTANT**

Judicial Release: Mandatory Sentence

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/o/2014/2014-ohio-5201.pdf>

**R.C. 2929.20, Ohio's judicial-release statute, allows certain offenders to apply for early release from prison. In this appeal, we conclude that appellee, Shawn Ware, was not eligible for judicial release, because his entire sentence was mandatory. Although the trial court later expressed its intent to impose a different sentence that would have allowed Ware to apply for early release, the court did not impose that sentence, nor could it have done so under Ohio law.**

**Here's what that means: Suppose your client is convicted of a second-degree felony that carries mandatory prison time. The sentencing range is 2 to 8 years. The judge cannot say, "I am sentencing you to 4 years in prison, 2 of which are mandatory. You can apply for judicial release after 2 years."**

**The Ohio Supreme Court has said hybrid sentences are not possible -- they are not provided for in the sentencing statute. In other words, if your client has been convicted of a crime carrying mandatory prison time, and the**

judge sentences him to 4 years in prison, it is mandatory that he do all 4 years. No ifs, ands, or buts.

## Sixth Circuit Court of Appeals

*Eakes v. Sexton*, No. 14-5017

Habeas: Evidence: *Brady*

Full Decision: <http://www.ca6.uscourts.gov/opinions.pdf/14a0885n-06.pdf>

This case is worth reading simply because it is a nice summary of the current state of *Brady*-related law.

## Supreme Court of the United States

*Nothing new.*