

## Appellate Court Decisions - Week of 11/27/17

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

### First Appellate District of Ohio

*Nothing to report.*

### Second Appellate District of Ohio

*Nothing to report.*

### Third Appellate District of Ohio

#### **State v. Thompson, 2017-Ohio-8686**

**R.C. 2941.401: Motion to Dismiss**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/3/2017/2017-Ohio-8686.pdf>

The trial court did not err in granting appellant's motion to dismiss. A complaint was filed against appellant in Bellefontaine Municipal Court on February 17, 2016, for eight counts of breaking and entering (F5). Appellant was in prison before July 2016. Then, on July 6, 2016, he followed the proper procedure under R.C. 2941.401 to request disposition for the complaint against him in Bellefontaine. The paperwork went to the warden, who then sent it to the clerk of courts and the prosecutor. On August 9, 2016, a complaint was filed against appellant in the Logan County Common Pleas Court for the same crimes. The charges in Bellefontaine were dropped on August 16, 2016. He was arraigned in Logan County, then eventually the motion to dismiss happened.

There was a lot of back and forth about whether appellant filed his request for disposition properly. Ultimately, the Third District upheld the dismissal. It said, "[t]he State essentially seeks to circumvent R.C. 2941.401 by filing a new case with the same charges. Allowing the State to do so would render the purpose of the statute, which is to have timely adjudication of pending claims against and incarcerated individual, meaningless."

### Fourth Appellate District of Ohio

*Nothing to report.*

## Fifth Appellate District of Ohio

*Nothing to report.*

## Sixth Appellate District of Ohio

**State v. Palacios, 2017-Ohio-8674**

**Jury Trial**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2017/2017-Ohio-8674.pdf>

**The Sixth District reversed appellant’s conviction. Appellant filed a written motion for a jury trial seven days before trial was set. The state filed proposed jury instructions and a motion in limine referencing the jury. Then, the next day he state opposed the motion as untimely, and the court granted the state’s motion. The case proceeded to a bench trial. Appellant was found guilty. After the trial, appellant retained new counsel and filed a motion for a new trial, arguing her attorney was ineffective for failing to properly request a jury trial. The trial court denied the motion.**

**On appeal, the Sixth District said, “because the court set the matter for a jury trial and the parties relied upon and prepared the matter for a jury trial, the state was not prejudiced by the untimely filing of appellant’s Crim.R. 23(A) motion. Accordingly, the court abused its discretion when it denied appellant’s motion for a new trial on this basis.”**

## Seventh Appellate District of Ohio

*Nothing to report.*

## Eighth Appellate District of Ohio

*Nothing to report.*

## 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 ex rel. Clay v. Cuyahoga Cty. Med. Examiner's Office, 2017-Ohio-8714***

Coroner's Records: R.C. 313.10(C)(1): R.C. 149.43(B)(8)

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2017/2017-Ohio-8714.pdf>

***"R.C. 313.10(C)(1) is plain and unambiguous and provides relator, as next of kin, the right to receive a copy of the full and complete records of the coroner with respect to his daughter, for whose murder he is incarcerated."***

***"Requests under R.C. 313.10(C)(1) are not subject to R.C. 149.43(B)(8)'s restrictions on requests by incarcerated persons."***

## **Sixth Circuit Court of Appeals**

*Nothing to report.*

## **Supreme Court of the United States**

*Nothing to report.*