

Appellate Court Decisions - Week of 11/30/15

First Appellate District of Ohio

State v. Dalmida, 2015-Ohio-4995

ID: Photos: Evidence: Indictment: Complaint: Assault: Robbery: Weapons Under Disability: Complicity: Counsel: R.C. 2941.25: Allied Offenses

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2015/2015-Ohio-4995.pdf>

Summary from the First District:

“Defendant failed to show he was prejudiced by the loss of the photo lineups where neither party offered the photo arrays into evidence.

“Defendant did not demonstrate plain error in the trial court’s failure to instruct the jury on constructive possession of the firearm or the police officer’s noncompliance with R.C. 2933.83, the witness-identification statute, where defendant did not show that the outcome of the trial would have been different but for the trial court’s alleged errors.

“Defendant’s conviction for having a weapon while under a disability was based on sufficient evidence where the evidence showed that defendant, who had previously been convicted of a felony, was an active participant in beating and robbing the victim, and ordered his accomplice to shoot the victim.

“Indictment of defendant for weapons under disability was proper where defendant was under disability due to a prior felony conviction, was indicted as a principal offender, and constructively possessed the weapon by participating in the aggravated robbery and felonious assault.

“There was no error in having defendant stand trial while wearing a jail uniform where defendant never requested a recess or continuance to obtain different clothing and the court specifically instructed jurors to ignore the fact that defendant was wearing jail clothing.

“Defendant failed to establish trial counsel was ineffective where defendant did not show counsel’s conduct fell below an objective standard of reasonableness or how defendant was prejudiced.

“The trial court did not err in failing to merge defendant’s convictions, because the having-weapons-under-a-disability offense was of a dissimilar import from the other offenses where that statute manifests a legislative purpose to punish the act of possessing a firearm while under a disability separately from any offense committed

with a firearm, and the aggravated robbery and felonious assault were committed with different conduct where defendant robbed the victim of a cell phone, completing the aggravated robbery, and then told his accomplice to shoot the victim.”

State v. Sims, 2015-Ohio-4996

Indictment: Complaint

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2015/2015-Ohio-4996.pdf>

Summary from the First District:

“The trial court did not commit plain error in convicting defendant of first-degree-misdemeanor criminal damaging, even though the affidavit and complaint failed to contain the degree of offense or track the language of the aggravating element from the criminal-damaging statute, because the complaint contained the facts necessary to put the defendant on notice that the aggravating element applied.

“R.C. 2945.75(A)(2), which requires that ‘[a] guilty verdict’ contain either the degree of offense, or any additional element making an offense one of more serious degree, has no applicability in a bench trial, because only a jury can issue a ‘guilty verdict.’”

Second Appellate District of Ohio

Nothing new.

Third Appellate District of Ohio

Nothing new.

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. Johnson, 2015-Ohio-4903

Aggravated Murder: Sentencing: Death Penalty

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/o/2015/2015-Ohio-4903.pdf>

“In 1998, defendant-appellant, Rayshawn Johnson, was convicted of the 1997 aggravated murder of Shanon Marks and was sentenced to death. Finding no success on direct appeal or through the postconviction process in state court, Johnson sought habeas corpus relief in federal court and was granted relief there on the grounds that he had received ineffective assistance of trial counsel during the mitigation phase of his trial.

“In 2011, the state conducted a new mitigation hearing. A new judge presided over the hearing, and 12 new jurors recommended a sentence of death. The trial court again imposed a death sentence, and we now review Johnson’s direct appeal as of right from that sentence. We find that there

were no significant procedural defects in the new mitigation hearing, but, pursuant to our independent evaluation of the sentence under R.C. 2929.05(A), we determine that the aggravating circumstances in this case do not outweigh beyond a reasonable doubt the mitigating factors. We accordingly vacate the sentence of death and remand the cause to the trial court for resentencing consistent with R.C. 2929.06.”

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

Nothing new.