

Appellate Court Decisions - Week of 11/5/18

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

Nothing to report.

Fourth Appellate District of Ohio

State v. Huckleby, 2018-Ohio-4438

Jury Instructions: Sufficiency

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/4/2018/2018-Ohio-4438.pdf>

Appellant's conviction for failure to appear was based on insufficient evidence where the state failed to present any evidence Appellant know, or should have known, when he was supposed to have appeared in court. The jury instructions were also deficient where they failed to address the requisite mental state for failure to appear, and failed to fully define the recognizance bond. Appellant's vandalism conviction was also based on insufficient evidence where the state failed to present evidence the dollar amount of the property damage caused. The jury instructions also failed to define "serious physical harm" to property.

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

State v. Hartman, 2018-Ohio-4452

Motion to Withdraw Plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2018/2018-Ohio-4452.pdf>

From the Opinion: “The defendant-appellant, Frederick Hartman, appeals a trial court decision denying his motion to withdraw his guilty plea entered in the Huron County Court of Common Pleas. In support of his appeal, Hartman claims that he did not knowingly plead guilty because he was pressured by his trial counsel to accept the terms of a plea and because he was emotionally distraught over the imminent death of his wife. He maintains his innocence and argues that he did not receive a fair hearing on the motion to withdraw his guilty plea. We conclude that the trial court’s decision to deny Hartman’s motion was unreasonable because the record establishes that he asserted his innocence just prior to, and after, pleading guilty and because the state would not have been prejudiced by allowing Hartman to withdraw. As set forth below, we reverse the decision of the trial court and remand the case with the order that the trial court vacate the plea agreement.”

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

State v. Asadi-Ousleym, 2018-Ohio-4431

App.R. 26(B): Reopening Appeal

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2018/2018-Ohio-4431.pdf>

Summary from the Eighth District: “Appellant was prejudiced by the failure of appellate counsel to assign as error that trial counsel was ineffective in failing to file a motion to dismiss a count of felonious assault, when the six-year statute of limitations period had expired prior to the filing of the indictment.”

State v. Buehner, 2018-Ohio-4432

Motion For Leave to File a Motion For New Trial

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2018/2018-Ohio-4432.pdf>

Summary from the Eighth District: “Denial of motion for leave to file a motion for new trial without a hearing was an abuse of discretion where the state failed to disclose exculpatory evidence in pretrial. However, because it was unclear whether the exculpatory evidence would have changed the outcome of the trial, the case was remanded for a hearing on the motion for new trial.”

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

State v. Krieger, 2018-Ohio-4483

Domestic Violence: Sufficiency

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2018/2018-Ohio-4483.pdf>

Appellant’s conviction for domestic violence was based on insufficient evidence where the evidence showed he pushed his wife, there was no evidence she suffered any injury as a result.

Supreme Court of Ohio

State v. Ireland, 2018-Ohio-4494

Affirmative Defense

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2018/2018-Ohio-4494.pdf>

From the opinion: “In this case, we are presented with the issue whether the defense of blackout is an affirmative defense that must be proved by the defendant by a preponderance of the evidence. We conclude that blackout is an affirmative defense pursuant to R.C. 2901.05(D)(1)(b) and that requiring a defendant to prove this affirmative defense by a preponderance of the evidence does not violate the defendant’s right to due process..”

Also from the opinion: “While the evidence used to assert a blackout affirmative defense pursuant to R.C. 2901.05(D)(1)(b) may overlap with the evidence used to challenge the state’s case-in-chief, this overlap does not create an impermissible burden shift and does not violate the defendant’s right to due process.”

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.