

Appellate Court Decisions - Week of 12/31/18

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

State v. Montgomery, 2018-Ohio-5278

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2018/2018-Ohio-5278.pdf>

Appellant not subject to post-release control (“PRC”), as trial court did not properly impose PRC at sentencing and in sentencing entry and appellant has been released from prison.

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

In re M.W., 2018-Ohio-5227

Juvenile: Disseminating Matter Harmful to a Juvenile: Sufficiency

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2018/2018-Ohio-5227.pdf>

Adjudication for pandering sexually-oriented material involving a minor affirmed; however, adjudication for disseminating matter harmful to a juvenile was not supported by sufficient evidence. The video of an erect penis in frame with the face of a minor female which did not exhibit any sexual activity, was not obscene nor harmful to juveniles.

Sixth Appellate District of Ohio

Vermilion v. Lane, 2018-Ohio-5284

Suppression

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2018/2018-Ohio-5284.pdf>

Trial court erred when it denied defendant's motion to suppress because trooper did not have reasonable, articulable suspicion that a traffic violation had occurred; defendant signaled prior to changing lanes and did so safely and marked lanes statute is clear and unambiguous.

Toledo v. Myers, 2018-Ohio-5286

Jury Demand and Waiver

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/6/2018/2018-Ohio-5286.pdf>

In conviction of menacing by stalking after bench trial, defendant's right to a jury trial was violated, as defendant never properly withdrew his jury demand; the trial court did not address defendant, and no written waiver appears in the record.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

Cleveland v. L.K.P, 2018-Ohio-5233

Violation of a Protection Order: Sufficiency

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2018/2018-Ohio-5233.pdf>

Summary from the Eighth District: "Defendant's conviction for violation of a protection order vacated because the city failed to prove that the

protection order was served on the defendant prior to the alleged violation.”

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. Hall, 2018-Ohio-5300

Improper Handling of a Firearm in a Motor Vehicle: Weight and Sufficiency

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2018/2018-Ohio-5300.pdf>

Summary from Judge Rodenberg: “Appellant’s conviction was against the manifest weight of the evidence where the trooper who performed a traffic stop testified that he never saw the weapon in appellant’s vehicle so that the state failed to submit any evidence to prove the necessary statutory elements of a loaded weapon carried in a vehicle in an inappropriate manner.” In fact, the appellate court found that appellant was entitled to a directed verdict of acquittal and was discharged.

State v. Shaffer, 2018-Ohio-5297

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/12/2018/2018-Ohio-5297.pdf>

The prison term limitation of R.C. 2925.15(B)(1)(c)(i) is not applicable where appellant “committed violations of law while under his imposed fifth-degree felony community control sanction that are new felony offenses.”

Supreme Court of Ohio

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.