

Appellate Court Decisions - Week of 2/1/16

First Appellate District of Ohio

State v. Ballard, 2016-Ohio-364

OVI: Repeat-Offender Specification: Constitution: Equal Protection: Due Process: Sentencing: R.C. 2941.1413

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2016/2016-Ohio-364.pdf>

Summary from the First District:

“R.C. 2941.1413, which allows for a repeat-offender specification in OVI cases, does not violate the Equal Protection or Due Process Clauses of the United States and Ohio Constitutions, because the statute is rationally related to the legislature’s goal of punishing defendants who have repeatedly violated the operating-a-vehicle-while-under-the-influence statute.

“Absent a showing of illegal selective enforcement, such as enforcement based on race, religion or some other suspect classification, prosecutorial discretion in the enforcement of the R.C. 2941.1413 repeat-offender specification does not render the statute unconstitutional under the Equal Protection or Due Process Clauses of the United States and Ohio Constitutions.

“The defendant’s no-contest plea waived any challenge to facts underlying his conviction.

“The trial court did not err when it ordered the defendant’s driver’s license suspension to begin on the date of sentencing.

“Where the sentence was within the statutory range and the defendant did not demonstrate that the trial court had failed to consider the purposes and principles of sentencing the sentence was not contrary to law.”

State v. Williams, 2016-Ohio-376

Appellate Review: Jurisdiction: R.C. 2941.25: Sentencing

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2016/2016-Ohio-376.pdf>

Summary from the First District:

“Because the defendant agreed as part of the plea agreement that two offenses had been committed with a separate animus, he waived the protection of R.C. 2941.25, and therefore, the agreed sentences were not contrary to law.

“Because the agreed sentences were authorized by law, the appellate court lacked jurisdiction to review them, and where the defendant challenged only his sentences, the appeal must be dismissed.”

Second Appellate District of Ohio

State v. Baker, 2016-Ohio-315

Sentencing: Community Control: Sanctions

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/2/2016/2016-Ohio-315.pdf>

The trial court erred in ordering restitution without first holding a hearing when the amount of restitution was disputed by appellant. In addition, some of the trial court’s conditions for appellant’s community control sanctions were not reasonably related to the purposes of sentencing – particularly, the trial court’s order that appellant quit her job and find new employment but pay \$560 per month in restitution, and the order that appellant change therapists.

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

State v. Lloyd, 2016-Ohio-331

OVI: Sufficiency: R.C. 2937.07: Double Jeopardy

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/6/2016/2016-Ohio-331.pdf>

The trial court erred in failing to follow Crim.R. 11(D) and (E) where it did not address appellant personally to inform her of the effect of the pleas of guilty, no contest, and not guilty, and where it failed to determine that she made her plea voluntarily. The trial court also erred under R.C. 2937.07 where it failed to call for an explanation of the circumstances of the offense because the plea was no contest. The error was plain error – it did not matter that appellant did not object in the trial court. The remedy is to vacate the conviction. Appellant cannot be retried because Double Jeopardy attaches.

Seventh Appellate District of Ohio

Nothing new.

Eighth Appellate District of Ohio

State v. Stephens, 2016-Ohio-384

Jury Instructions: Self-Defense

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2016/2016-Ohio-384.pdf>

The trial court abused its discretion in refusing to give the jury a self-defense instruction in appellant's felonious assault trial. There was sufficient evidence presented that, if believed, would cause reasonable minds to reach the conclusion that appellant acted in self-defense. The facts of the case were that the alleged victim was moving out of appellant's home. They got in a dispute over some property. Appellant tried to grab for the property, but the alleged victim kept stopping those attempts. Eventually, the alleged victim shoved appellant hard enough to cause him to fall. Appellant pulled a knife, but did not actually try to stab the alleged victim. The alleged victim overpowered appellant, and with the help of the friend that was helping him move, they disarmed appellant and left the house.

Appellant was also denied a fair trial where the prosecution introduced highly prejudicial evidence of appellant's previous domestic violence conviction where appellant did not open the door to such evidence by introducing evidence of his character for peacefulness.

Garfield Hts. v. Williams, 2016-Ohio-381

Right to Counsel

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2016/2016-Ohio-381.pdf>

Summary from the Eighth District: “Trial court erred in failing to obtain a proper waiver of appellant's right to counsel at trial. An acknowledgment of rights form signed by the appellant was insufficient to constitute waiver of counsel. However, because the offense was a misdemeanor the remedy was limited to reversing only those portions of appellant's sentence that constitute "actual imprisonment." Appellant's convictions were otherwise supported by sufficient evidence.”

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

Nothing new.

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

Nothing new.