

Appellate Court Decisions - Week of 2/13/17

First Appellate District of Ohio

State v. Daniels, 2017-Ohio-548

R.C. 2941.25: Waiver: Plain Error: Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2017/2017-Ohio-548.pdf>

Summary from the First District:

“The defendant failed to demonstrate that the trial court committed plain error by failing to merge his convictions for robbery and kidnapping as allied offenses of similar import, because he failed to show based on the record a reasonable probability that he had been convicted of allied offenses of similar import committed with the same conduct and the same animus.”

State v. Walsh, 2017-Ohio-549

No-Contest Plea: Traf.R. 10

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/1/2017/2017-Ohio-549.pdf>

Summary from the First District:

“Defendant’s plea of no-contest to a marked-lanes violation must be vacated where the trial court failed to comply with Traf.R. 10(D) by accepting defendant’s plea without first informing defendant of the consequences of his plea pursuant to Traf.R. 10(B).”

Second Appellate District of Ohio

Nothing to report.

Third Appellate District of Ohio

Nothing to report.

Fourth Appellate District of Ohio

Nothing to report.

Fifth Appellate District of Ohio

Nothing to report.

Sixth Appellate District of Ohio

Nothing to report.

Seventh Appellate District of Ohio

Nothing to report.

Eighth Appellate District of Ohio

State v. D.F., 2017-Ohio-534

Interference With Custody: Sufficiency

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-534.pdf>

Summary from the Eight District:

“Conviction for interference with custody vacated for lack of sufficient evidence when the evidence showed that the parties often deviated from the parenting schedule and there was no evidence to show that the parties discussed when the child would be returned.”

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

Nothing to report.

Sixth Circuit Court of Appeals

Turner v. United States, No. 15-6060

Full Decision: <http://www.opn.ca6.uscourts.gov/opinions.pdf/17a0034p-06.pdf>

Sixth Amendment: Right to Counsel: Dual Prosecutions

Summary from the Sixth Circuit:

“This case arises because our system of federalism allows dual prosecutions by both state and federal sovereigns for one criminal episode without the protection of double jeopardy. *Abbate v. United States*, 359 U.S. 187 (1959). This appeal presents the question of whether the Sixth Amendment right to counsel may attach before formal charges are filed in federal court. Defendant John Turner was arrested in Memphis by officers working with a joint federal-state anticrime task force. He was charged with aggravated robbery pursuant to Tennessee law, and retained counsel to represent him. During the pendency of the state proceedings, the United States Attorney’s Office and Turner’s attorney in the state proceeding discussed settlement regarding forthcoming federal charges arising out of the same conduct that led to the state charges. Turner rejected a federal plea offer regarding the as-yet uncharged federal case, but he subsequently pled guilty to the federal charges pursuant to a less-favorable plea agreement. He filed a motion pursuant to 28 U.S.C. § 2255 to vacate or set aside his federal conviction based on ineffective assistance of counsel during plea negotiations concerning the federal charges. The government argued that because Turner had no Sixth Amendment right to counsel regarding plea negotiations conducted prior to the filing of formal charges against him, counsel could not be constitutionally ineffective. Following Sixth Circuit precedent holding that the Sixth Amendment right to counsel does not attach before formal charges are filed, the district court denied the motion without reaching the merits of the ineffective assistance of counsel claim. Because our precedent requires us to do so, we affirm the judgment of the district court.”

Supreme Court of the United States

Nothing to report.