

Appellate Court Decisions - Week of 2/19/18

Note: This is not a comprehensive list of every case released this week.

First Appellate District of Ohio

State v. Thyot, 2018-Ohio-644

Crim.R. 12(K): Motion In Limine: Authentication

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-644.pdf>

Summary from the First District:

“The state may appeal from the granting of a motion in limine that is, in effect, a motion to suppress evidence, which renders the state’s proof with respect to the pending charge so weak in its entirety that any reasonable probability of effective prosecution has been destroyed.

“The appellate court is without authority to review the prosecutor’s Crim.R. 12(K) certification and may not dismiss the prosecutor’s appeal for want of a final, appealable order based on the merits of the prosecutor’s certification.

“When a motion in limine is the functional equivalent of a motion to suppress, the appellate court should use the standard of review applicable to a motion to suppress.

“The state adequately authenticated a video taken in the ordinary course of business outside of a gas station where the regional manager for the company that operated the gas station testified that the video was a recording of the area outside of a store with which he was familiar, he knew how the video security system recorded and stored videos in the ordinary course of business, he knew the system to be accurate, and he had used the system in previous investigations, even though he had no personal knowledge of the contents of the video and he was not present when it was burned onto a DVD.”

State v. Carter, 2018-Ohio-645

Death Penalty: Sentencing: Sixth Amendment

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-645.pdf>

Summary from the First District:

“Ohio’s death-penalty statute does not require judicial fact finding before the defendant can be sentenced to death, because the jury must find the defendant guilty beyond a reasonable doubt of an aggravating factor for the death penalty to be a sentencing option; and therefore, Ohio’s death-penalty statute does not violate the Sixth Amendment right to a jury trial. (*Hurst v. Florida*, ___ U.S. ___, 136 S.Ct. 616, 193 L.Ed.2d 504 (2016), distinguished.)”

State v. Mincey, 2018-Ohio-662

Complicity: Evidence: Expert Witness: Misconduct: Jury Instructions: Sentencing

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/1/2018/2018-Ohio-662.pdf>

Summary from the First District:

“The trial court did not abuse its discretion in admitting cell phone video footage into evidence where the footage was properly authenticated and relevant, and its probative value was not outweighed by the danger of unfair prejudice. [*But see* CONCURRENCE: The trial court abused its discretion in admitting the video footage because it was irrelevant; however, the error was harmless.]

“The trial court did not abuse its discretion or violate defendant’s right to due process in failing to appoint a second expert witness for defendant where defendant did not show how a second expert, who would have performed testing similar to that performed by defendant’s first expert, would have aided in the defense, and the state’s case was largely based on evidence other than that about which the expert would have testified.

“General claims of prosecutorial misconduct without a showing as to how the alleged misconduct deprived defendant of a fair trial will not serve as the basis for reversal on appeal.

“The trial court did not err in charging the jury on complicity where the court included all elements of the offense in the charge and the charge was not ambiguous. [*But see* DISSENT: The court’s failure to follow the Ohio Jury Instructions and include the mens rea for complicity within the complicity instruction itself constituted reversible error.]

“Defendant’s claim of ineffective assistance of counsel fails where she has not demonstrated how counsel’s failure to object to allegedly improper statements by the prosecutor during closing argument deprived her of a fair trial.

“Viewing the evidence presented in a light most favorable to the prosecution, the jury’s verdict was supported by sufficient evidence, and while the defendant presented a version of events that, if believed, would have exonerated her, there is no indication

that, in weighing the evidence presented, the jury so lost its way as to create a manifest miscarriage of justice warranting a new trial.

“Where none of the grounds alleged in support of defendant’s motion for a new trial constituted prejudicial error, the trial court properly denied the motion. [*But see* DISSENT: In light of the erroneous jury instruction, the trial court should have granted defendant a new trial.]

“The trial court did not err in sentencing defendant: while the court specifically referenced some of the R.C. 2929.11 and 2929.12 factors, in the absence of evidence to the contrary, it can be presumed that the court considered all the statutory factors; and the trial court’s failure to notify defendant that she would be required to submit to DNA testing and that she could not ingest or be injected with a drug of abuse while in prison was harmless error.”

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

Nothing to report.

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

Nothing to report.

Supreme Court of the United States

Class v. United States, No. 16-424

Federal Law: Constitutional Law: Guilty Plea

Full Decision:

https://www.supremecourt.gov/opinions/17pdf/16-424_g2bh.pdf

“A guilty plea, by itself, does not bar a federal criminal defendant from challenging the constitutionality of his statute of conviction on direct appeal.”