

Appellate Court Decisions - Week of 2/2/15

First Appellate District of Ohio

State v. Carnes, 2015-Ohio-379

OVI: ALS Suspension

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-140188_02042015.pdf

Summary from the First District:

“The trial court did not err in denying the defendant’s administrative-license-suspension appeal, because evidence that the defendant had committed a traffic violation, had bloodshot and glassy eyes, smelled of alcohol, denied drinking, was driving with privileges under a prior administrative license suspension, and refused to submit to field-sobriety or chemical testing provided sufficient grounds to impose an administrative license suspension.”

Second Appellate District of Ohio

State v. Wilkins: 2015-Ohio-337

Mistrial: Indictment

Full Decision: <http://www.supremecourt.ohio.gov/rod/docs/pdf/2/2015/2015-ohio-337.pdf>

The trial court erred in allowing the theft indictment against Appellant to be amended to include dates subsequent to the date in the indictment returned by the grand jury. The indictment alleged the offense occurred on May 7, 2011, but the indictment was amended the day before trial to say “between the dates of May 7, 2011, to the present. The Second District held Appellant’s ability to defend was prejudiced by the amendment because he no longer had to defend against the mens rea for one day, but many days over a long period of time.

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. Young, 2015-Ohio-398

Motion to Suppress: Search

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/6/2015/2015-ohio-398.pdf>

The trial court erred in denying Appellant's motion to suppress where police unlawfully detained him after a valid traffic stop but pending the arrival of a K-9 unit. Appellant was stopped for an obscured license plate and county sticker, but the 25-minute wait for the K-9 unit amounted to an impermissible expansion of the length and scope of the traffic stop.

Police also lacked probable cause to arrest Appellant where there was no evidence Appellant knew his passenger had drugs in his front pants pocket.

The warrantless entry into Appellant's home also violated the Fourth Amendment. The information from a CI indicated only that Appellant and his passenger, who police already arrested, were cooking crack cocaine in the apartment. The normal household sounds of running water and footsteps did not justify a warrantless entry into the home.

There was no probable cause to issue a search warrant to search Appellant's home where the affidavit in support of the application for the search warrant did not mention how the CI got the provided information or what time the CI contacted police. Also, the fact that Appellant was successfully investigated in 2006 for drugs was too stale to consider for this search warrant.

Seventh Appellate District of Ohio

Nothing new.

Eighth Appellate District of Ohio

Nothing new.

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.