

Appellate Court Decisions - Week of 2/23/15

First Appellate District of Ohio

State v. Nelson, 2015-Ohio-660

Mootness: Assault

Full Decision: http://www.hamilton-co.org/appealscourt/docs/decisions/C-140352_02252015.pdf

Summary from the First District:

“The defendant’s appeal is not moot where the record demonstrates that the defendant was imprisoned pending the outcome of the proceedings on the charges for which the defendant was held, the trial court sentenced the defendant to time served, and the defendant did not otherwise voluntarily complete any other part of the sentence.

“The defendant’s conviction for assault was supported by sufficient evidence and was not against the manifest weight of the evidence where a security guard testified that the defendant walked into the guard’s body and struck the guard in the arm.”

Second Appellate District of Ohio

Nothing new.

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

Nothing new.

Seventh Appellate District of Ohio

Nothing new.

Eighth Appellate District of Ohio

State v. Fisher, 2015-Ohio-597

Kidnapping: Sufficiency

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2015/2015-Ohio-597.pdf>

It was plain error on the part of the trial court to convict appellant of first-degree felony kidnapping where the victim was left in a safe place unharmed. See R.C. 2905.01(C)(1). The conviction was modified by the Eighth District to a second-degree felony kidnapping.

State v. Edgeron, 2015-Ohio-593

Aggravated Assault: Sentencing: Merger

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2015/2015-Ohio-593.pdf>

The trial court erred in failing to merge appellant's two aggravated assault convictions, one under R.C. 2903.12(A)(1) and the other under R.C. 2903.12(A)(2), where they were allied offenses of similar import and there was no break conduct or animus that lead to the convictions.

State v. Porter, 2015-Ohio-589

Statute of Limitations

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2015/2015-Ohio-589.pdf>

Appellant's conviction for rape was vacated where the indictment from which his conviction stemmed was filed 10 days after the expiration of the 20-year statute of limitations under R.C. 2901.13(A)(3)(a). The whole opinion is only 25 paragraphs and reads like a summary. It's an interesting read regarding how this came about, including a dismissed indictment from one day before the statute ran and an argument about tolling the statute because appellant left the area several weeks after the incident.

In re J.C.C., 2015-Ohio-592

Delinquency: Involuntary Manslaughter: Sufficiency

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2015/2015-Ohio-592.pdf>

Appellant's adjudication of delinquency on the charge of involuntary manslaughter was based on insufficient evidence where the two girls engaged in a fight, which the victim started and remained the aggressor throughout, but the state presented no evidence of which aspect of the incident led to the victim's death – the lead up, the actual fight, or the taunting afterward.

Cleveland v. Peoples, 2015-Ohio-674

Sentencing: Community Service

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2015/2015-Ohio-674.pdf>

When sentencing appellant for petty theft, the trial court abused its discretion in ordering appellant to perform 300 hours of community service in lieu of a \$200 fine because the number of hours ordered was not commensurate with the fine, even though the number of hours was within the statutory range.

State v. Dukes, 2015-Ohio-676

Search: Motion to Suppress

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2015/2015-Ohio-676.pdf>

“The trial court erred when it denied the defendant's motion to suppress evidence of his blood alcohol test results because the state did not meet its burden in establishing that (1) the blood sample was sealed in accordance with Ohio Adm.Code 3701-53-05(E), (2) the blood sample was refrigerated as required by Ohio Adm.Code 3701-53-05(F), and (3) the lab director had obtained a laboratory director's permit from the Ohio Department of Health as required by Ohio Adm.Code 3701-53-09(A).”

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

State v. Noble, 2015-Ohio-652

Sentencing

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/12/2015/2015-Ohio-652.pdf>

Appellant’s sentence was vacated and remanded for resentencing where “the statements made by the trial court created the appearance from which an inference could be made that it may have augmented [appellant’s] sentence because he exercised his right to a jury trial. Moreover, there [was] no evidence in the record that the trial court made an unequivocal statement that [appellant’s] sentence was not more severe because he exercised his constitutional right.”

Supreme Court of Ohio

Nothing new.

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

Nothing new.