

## Appellate Court Decisions - Week of 3/16/20

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

### First Appellate District of Ohio

*Nothing to report.*

### Second Appellate District of Ohio

#### **State v. Louis, 2020-Ohio-951**

Allied offenses

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/2/2020/2020-Ohio-951.pdf>

**Trial court erred in failing to merge the kidnapping and gross sexual imposition offenses where “there was only one victim, the offenses were not committed separately, and the resulting harm from each offense was the same.” The restraint of the victim was merely incidental to the gross sexual imposition. See State v. Logan, 60 Ohio St.3d 126, 397 N.E.2d 1345 (1979) (Even though Logan predates Ruff, this court and others continue to apply the guidelines set forth in Logan in determining whether kidnapping and another offense were committed with a separate animus, in accordance with the third prong of the Ruff test.**

### Third Appellate District of Ohio

*Nothing to report.*

### Fourth Appellate District of Ohio

*Nothing to report.*

### Fifth Appellate District of Ohio

#### **State v. Hodge, 2020-Ohio-901**

Restitution

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/5/2020/2020-Ohio-901.pdf>

Restitution order is vacated and matter remanded for a restitution hearing where there was insufficient evidence to support the restitution amount; evidence for restitution was presented to court in co-defendant's case and was not in the record for appellant's case.

### Sixth Appellate District of Ohio

*Nothing to report.*

### Seventh Appellate District of Ohio

*Nothing to report.*

### Eighth Appellate District of Ohio

#### **State v. Primous, 2020-Ohio-912**

Insufficient evidence; child endangering

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-912.pdf>

Insufficient evidence was presented to support appellant's convictions for child endangering, R.C. 2919.22(A); the state failed to present evidence to prove that appellant was a person who "owed a duty of care to the children by either his relationship to them or the role he undertook to assume responsibility for them. . . ."

#### **State v. Nevels, 2020-Ohio-915**

Guilty plea

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-915.pdf>

Appellant's guilty plea was not made knowingly, intelligently, and voluntarily where he made claims of innocence that amounted to an *Alford* plea, but the trial court failed to do the proper inquiry into the factual basis and circumstances surrounding the charges so as to determine if appellant was making a reasonable calculation to plead guilty despite protesting his innocence. *See North Carolina v. Alford*, 400 U.S. 25, 91 S.Ct. 160, 27 L.Ed.2d 162 (1970).

***State v. Regalo, 2020-Ohio-917***

Sentence

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-917.pdf>

**Trial court erred in imposing consecutive sentences which were not supported by the trial court's finding; consecutive sentences vacated and case remanded with instructions to sentence appellant to concurrent sentences.**

***State v. Edwards, 2020-Ohio-927***

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2020/2020-Ohio-927.pdf>

**In community control violation for fifth-degree felony, trial court erred in sentencing appellant to one year in prison, as maximum sentence under R.C. 2929.15(B)(1)(c) is ninety days.**

**Ninth Appellate District of Ohio**

***State v. Stoddard, 2020-Ohio-893***

Speedy trial

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2020/2020-Ohio-893.pdf>

**Trial court erred in denying appellant's motion to dismiss for violation of his statutory speedy trial rights; trial court's reason for the sua sponte continuance, that being a scheduling conflict with another trial, was not reasonable, as the other case had been resolved by plea the day before.**

***State v. Todd, 2020-Ohio-963***

Suppression

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2020/2020-Ohio-963.pdf>

Trial court erred in denying appellant's motion to suppress, as the court's factual findings were not supported by the evidence presented at the suppression hearing; the court found that appellant drifted over the fog line, but this was contradicted by both the officer's testimony and the dash camera video.

### Tenth Appellate District of Ohio

*Nothing to report.*

### Eleventh Appellate District of Ohio

**State v. Mancini, 2020-Ohio-990**

Administrative license suspension

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2020/2020-Ohio-990.pdf>

Trial court erred in failing to hold an evidentiary hearing regarding appellant's administrative license appeal to determine if all conditions of R.C. 4511.197(C) had been met; remanded for that hearing.

### Twelfth Appellate District of Ohio

*Nothing to report.*

### Supreme Court of Ohio

**State v. Horn, 2020-Ohio-960**

Right to counsel

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2020/2020-Ohio-960.pdf>

For convictions of impaired consent rape, “[w]e conclude, without prescribing exact definitions for either ‘familial relationship’ or ‘mental or physical condition,’ that a familial relationship is not a mental or physical

**condition. R.C. 2907.02(A)(1)(c) clearly states that the ‘substantial impairment’ must be caused by a “mental or physical condition.” Accordingly, because a familial relationship is not a mental or physical condition, it is impossible for the state to prove beyond a reasonable doubt that [appellant] violated R.C. 2907.02(A)(1)(c) based on the theory that a familial relationship was the condition that caused the victims’ substantial impairment.**

***In re K.M., 2020-Ohio-995***

**Dependency**

**Full Decision:**

**<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2020/2020-Ohio-995.pdf>**

**Summary from OSC: “R.C. 2151.35(B)(1) mandates the dismissal of a case without prejudice if a juvenile court fails to conduct a dispositional hearing within 90 days of the filing of a complaint alleging that a child is abused, neglected, or dependent.”**

**Sixth Circuit Court of Appeals**

***Nothing to report.***

**Supreme Court of the United States**

***Nothing to report.***