

## Appellate Court Decisions - Week of 3/17/14

### First Appellate District of Ohio

#### **State v. Graham, 2014-Ohio-1024**

#### **Sentencing: Postrelease Control**

Full Decision: [http://www.hamilton-co.org/appealscourt/docs/decisions/C-130375\\_03192014.pdf](http://www.hamilton-co.org/appealscourt/docs/decisions/C-130375_03192014.pdf)

#### **Summary from the First District:**

“Where the trial court failed to properly notify the defendant about his postrelease-control obligations, the portion of the defendant’s sentence pertaining to postrelease control was void, and the cause must be remanded for proper postrelease-control notification. **(Note: PLEASE stop raising this argument until after your client has been released from prison. If you wait until after prison, your client won’t be put on postrelease control. If raised prior to release from prison, it will be fixed, and your client will be put on postrelease control upon release from prison.)**

“The trial court was not required to inform the defendant before accepting his guilty plea or during the sentencing hearing that the defendant had the right to earn prison-time credit for participation in various prison programs.

“The trial court did not err under R.C. 2947.23(A)(1) in failing to inform the defendant that he may be required to perform community service in lieu of paying court costs where the court did not impose a community-control sanction or other nonresidential sanction.”

#### **In Re: M.H. and L.S., 2014-Ohio-1050**

#### **Appellate Review: Civil – Jurisdiction: Venue**

Full Decision: [http://www.hamilton-co.org/appealscourt/docs/decisions/C-130704\\_03212014.pdf](http://www.hamilton-co.org/appealscourt/docs/decisions/C-130704_03212014.pdf)

#### **Summary from the First District:**

“The juvenile court’s order, rejecting the magistrate’s decision that dismissed the children-services agency’s complaint for dependency and remanding the matter to the magistrate for further disposition, did not affect a substantial right of the parties because the order did not terminate interim custody to the agency or foreclose the possibility of an award of permanent custody of the child to the agency at a later date; therefore, the order was not final and appealable under R.C. 2505.02(B)(2).

“The juvenile court’s order, purporting to award legal custody of a second child to a nonrelative, but stating that the court was ‘retain[ing] jurisdiction to make appropriate dispositions regarding the placement of the child for her safety,’ did not affect a substantial right and thus was not final and appealable because the order was inconsistent with an award of legal custody to the nonrelative, and therefore, temporary custody of the child remained with the children-services agency, which remained free to seek permanent custody or a different dispositional order at a later date.”

### **State v. Boykins, 2014-Ohio-1048**

#### **Sentencing**

**Full Decision:** [http://www.hamilton-co.org/appealscourt/docs/decisions/C-130068\\_03212014.pdf](http://www.hamilton-co.org/appealscourt/docs/decisions/C-130068_03212014.pdf)

#### **Summary from the First District:**

“The trial court did not err in convicting the defendant of patient endangering in violation of R.C. 2903.341(B) where the state presented evidence that (1) the defendant was the caretaker for the victim, a mentally-retarded/developmentally-disabled man who had the cognitive ability of a two-year-old child; (2) the defendant had left the victim in the bathtub unattended; and (3) the victim had suffered third-degree burns.

“The trial court’s imposition of the maximum sentence was not contrary to law where the prison term was in the applicable statutory range and where the trial court considered the purposes and principles of sentencing.

“Before imposing financial sanctions on the defendant, the trial court properly considered the defendant’s ability to pay the fine and restitution where the record demonstrated that the defendant had skills indicative of employability: the defendant was a relatively young man who had attained some college education, the defendant had served in the military for almost 10 years and the defendant had been working full-time prior to his arrest.

“The trial court erred under R.C. 2929.18(A)(1) in failing to hold a hearing on the amount of restitution after the defendant had objected to the amount of restitution ordered.”

#### **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**

*Nothing new.*

**Ninth Appellate District of Ohio**

*Nothing new.*

**Tenth Appellate District of Ohio**

**State v. Heyder, 2014-Ohio-1066**

Evid.R. 401

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/10/2014/2014-ohio-1066.pdf>

**In an aggravated robbery case where the victim was robbed at knife point, the trial court erred in violation of Evid.R. 401 by allowing the introduction of evidence of a knife found in Appellant's apartment, despite the victim's testimony at trial that the knife was not the one used in the robbery.**

**Eleventh Appellate District of Ohio**

*Nothing new.*

**Twelfth Appellate District of Ohio**

*Nothing new.*

## Supreme Court of Ohio

**State v. Maxwell, 2014-Ohio-1019**

**Sixth Amendment: Confrontation: Autopsy Reports: Nonexamining Deputy Coroner**

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/o/2014/2014-ohio-1019.pdf>

**Syllabus of the Court: “An autopsy report that is neither prepared for the primary purpose of accusing a targeted individual nor prepared for the primary purpose of providing evidence in a criminal trial is nontestimonial, and its admission into evidence at trial under Evid.R. 803(6) as a business record does not violate a defendant’s Sixth Amendment confrontation rights.”**

## Sixth Circuit Court of Appeals

*Nothing new.*

## Supreme Court of the United States

*Nothing new.*