

Appellate Court Decisions - Week of 3/21/16

First Appellate District of Ohio

Nothing new.

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

State v. Parks, 2016-Ohio-1178

Criminal Trespass: Sufficiency: Weight

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/5/2016/2016-Ohio-1178.pdf>

Appellant's conviction for criminal trespass at a library was based on insufficient evidence/was against the manifest weight of the evidence where the State provided no evidence appellant actually received communication of notice he was not authorized to return to the library until he was served with the notice of violation that was the basis of this conviction.

State v. Franchi, 2016-Ohio-1195

Motion to Dismiss: Evidence: Failure to Preserve

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/9/2016/2016-Ohio-1195.pdf>

The trial court erred when it reconsidered appellee's motion to suppress and dismissed the possession of cocaine indictment against him on the basis that the State failed to preserve the cruiser camera video of his traffic

stop. The missing recording would not have contained materially exculpatory evidence, so the trial court erred in placing the burden on the State to demonstrate that the recording did not contain such evidence.

Sixth Appellate District of Ohio

State v. Coleman, 2016-Ohio-1111

Sentencing: NGRI

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/6/2016/2016-Ohio-1111.pdf>

After appellant was found not guilty by reason of insanity on robbery and burglary charges, the trial court erred in ordering him to be committed to the Northwest Psychiatric Hospital for a maximum period of 16 years, which constituted consecutive, maximum sentences. Under R.C. 2945.401(J)(1)(b), the trial court was permitted to commit appellant for psychiatric treatment only for the maximum amount of time he would have received on the most serious offense. Here, that was eight years.

Seventh Appellate District of Ohio

Nothing new.

Eighth Appellate District of Ohio

State v. Mohammed, 2016-Ohio-116

Ineffective Assistance: Jury Instructions

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2016/2016-Ohio-1116.pdf>

Summary from the Eighth District: “Counsel was ineffective for failing to request the court to give R.C. 2905.01(C) instruction as to whether defendant found guilty of kidnapping released the victim in a safe place unharmed.”

“With the evidence showing that the victim had been released in a safe place unharmed, defense counsel had the obligation to ask the court to instruct the jury consistent with R.C. 2905.01(C).”

State v. Powell, 2016-Ohio-1220

Motion to Dismiss: Preindictment Delay

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2016/2016-Ohio-1220.pdf>

The trial court did not err in dismissing appellant's rape indictment for preindictment delay because he suffered actual prejudice in the near-20-year delay in prosecuting him. There was no question ever he was the alleged perpetrator. He was arrested immediately after the alleged attack and held for two days. The alleged victim, his then wife, asked that charges not be filed. Charges were not filed until almost 20 years later. In the interim period, appellant began suffering from schizophrenia and depression and testified at a hearing on the motion to dismiss the indictment that he had no memory of the incident. Therefore, given that he was married to the alleged victim, he could not testify to a possible consent defense any more.

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

State v. Klembus, 2016-Ohio-1092

OVI: Sentencing: R.C. 4511.19(G)(1)(d): R.C. 2941.1413

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/o/2016/2016-Ohio-1092.pdf>

“The application of R.C. 4511.19(G)(1)(d) and 2941.1413 to OVI offenders with five or more OVI convictions in the proceeding 20 years does not violate equal protection.”

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

Nothing new.