

Appellate Court Decisions - Week of 3/31/14

First Appellate District of Ohio

Nothing new.

Second Appellate District of Ohio

State v. Blair, 2014-Ohio-1279

Dismissal: Video: Preservation: Materially Exculpatory

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/2/2014/2014-ohio-1279.pdf>

The trial court erred when it denied Appellant's motion to suppress where the police officers failed to preserve a video of his arrest because the video was materially exculpatory. Appellant was charged with assaulting a police officer. The video was unique and materially exculpatory – and was the only objective evidence of the event – where the police officers, and the supervisor who reviewed the tape, gave differing accounts of important facts regarding the sequence of events that led to Appellant's arrest.

State v. Zumwalde, 2014-Ohio-1285

Degree of Offense: Domestic Violence

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/2/2014/2014-ohio-1285.pdf>

The trial court erred in finding Appellant guilty of fourth-degree felony domestic violence, rather than first-degree misdemeanor domestic violence where the indictment failed to identify the victim of Appellant's prior attempted assault as a family or household member.

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

Nothing new.

Eleventh Appellate District of Ohio

State v. Noling, 2014-Ohio-1339

New Trial: Crim.R. 33

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/11/2014/2014-ohio-1339.pdf>

This case has been going on for a very long time. It has gone up and down the state appellate system and the federal appellate system. It's an interesting read for anyone interested in postconviction matters. In this particular case, the Eleventh District finds, basically, that because the record is not clear regarding Appellant's *Brady* claim, actual innocence claim, and ineffective assistance claim, it needs to be remanded for further proceedings on the evidentiary issues. (The issue is whether certain documents were part of the open discovery). There's nothing ground breaking here yet, but it is an interesting read of a long and complicated case.

Twelfth Appellate District of Ohio

State v. Furr, 2014-Ohio-1319

Motion to Withdraw Guilty Plea: Jurisdiction

Full Decision: <http://www.sconet.state.oh.us/rod/docs/pdf/12/2014/2014-ohio-1319.pdf>

Summary from Judge Rodenberg:

“The trial court erred in determining that it lacked jurisdiction to rule on appellant’s postsentence motion to withdraw his guilty plea, because, when appellant filed a notice of appeal with the court of appeals, the trial court was temporarily divested of jurisdiction to rule on appellant’s motion to withdraw his guilty plea, but when the court of appeals dismissed appellant’s appeal without ruling on its substantive merits, the trial court regained jurisdiction to rule on appellant’s motion to withdraw his guilty plea that was pending in the trial court.

“The trial court erred in finding that it was precluded under the doctrine of res judicata from ruling on appellant’s post-sentence motion to withdraw his guilty plea, because neither the trial court nor the court of appeals issued a ruling on the merits of appellant’s motion and all but one of the claims appellant raised in support of his motion could not have been raised on direct appeal following his conviction, including appellant’s claims that his trial counsel (1) promised him he would receive probation, (2) ignored his request to withdraw his guilty plea, and (3) failed to explain the sentencing guidelines to him. In order to prove those claims, appellant necessarily will have to rely on evidence “dehors the record,” i.e., outside the record, including evidence regarding his private consultations with his trial counsel. The trial court erred in denying appellant an opportunity to present such evidence to prove those claims, and thus, erred in overruling appellant’s motion to withdraw his guilty plea on the basis of res judicata.

Supreme Court of Ohio

Nothing new.

Sixth Circuit Court of Appeals

Nothing new.

Supreme Court of the United States

Nothing new.