

## Appellate Court Decisions - Week of 3/5/18

*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

*Nothing to report.*

### Third Appellate District of Ohio

*Nothing to report.*

### Fourth Appellate District of Ohio

*Nothing to report.*

### Fifth Appellate District of Ohio

*Nothing to report.*

### Sixth Appellate District of Ohio

*Nothing to report.*

### Seventh Appellate District of Ohio

*Nothing to report.*

### Eighth Appellate District of Ohio

#### **Cleveland v. Krebs, 2018-Ohio-746**

**Failure to Comply: Sufficiency**

**Full Decision:**

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2018/2018-Ohio-746.pdf>

**Summary from the Eighth District: “The trial court failed to obtain a valid jury waiver on the defendant's failure to comply charge, but because the defendant did not have a right to a jury on his two minor misdemeanor**

offenses, failure to yield to a public safety vehicle and driving on the sidewalk, the trial court could conduct a bench trial on those charges. The city failed to present sufficient evidence of failure to comply and failure to yield to a public safety vehicle. Defendant's conviction for driving on a sidewalk, however, was not against the manifest weight of the evidence. Thus, defendant's convictions for failure to comply and failure to yield to a public safety vehicle were vacated and defendant's conviction for driving on a sidewalk was affirmed."

Basically, there was no evidence the defendant actually saw the police officer who was directing traffic.

### ***Cleveland v. Boone, 2018-Ohio-849***

Violation of Temporary Protection Order

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2018/2018-Ohio-849.pdf>

Summary from the Eighth District: "The trial court erred in denying appellant's Crim.R. 29 motion for judgment of acquittal and finding appellant guilty of violating a temporary restraining order where the city failed to produce a certified copy of the order, the parties did not stipulate to the terms of the order or that the order was in effect on the date of the alleged violation. A trial court may not take judicial notice of the docket of another court."

### **Ninth Appellate District of Ohio**

#### ***State v. A.V., 2018-Ohio-785***

Expungement: Unlawful Sexual Conduct with a Minor

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2018/2018-Ohio-785.pdf>

A conviction for attempted unlawful sexual conduct with a minor is not excluded from sealing pursuant to R.C. 2953.36(A)(2).

### **Tenth Appellate District of Ohio**

*Nothing to report.*

## Eleventh Appellate District of Ohio

*Nothing to report.*

## Twelfth Appellate District of Ohio

*Nothing to report.*

## Supreme Court of Ohio

### **State v. Noling, 2018-Ohio-795**

Postconviction: DNA

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2018/2018-Ohio-795.pdf>

**“An appellate court has jurisdiction over a claim raised by an offender who has requested postconviction DNA testing if the claim challenges any of the three discretionary decisions specifically listed as appealable in R.C. 2953.72(A)(8) or if the claim is that the trial court failed to fulfill a mandatory duty.”**

**“R.C. 2953.81(C)’s requirement that the testing authority provide the subject offender with ‘the results of the testing’ mandates that the offender be provided only the DNA profile created for the purpose of a comparison with the DNA profiles in the Combined DNA Index System.”**

\* \* \*

**“The judgment of the trial court is affirmed in part and reversed in part. We remand this case to the trial court for it to ensure that Noling is provided only the DNA profile created by BCI for purposes of running a comparison with 28 CODIS, that is, to ensure that Noling is provided ‘the results of the testing’ under R.C. 2953.81(C). Aside from this one limited exception, we affirm the judgment of the trial court.”**

### **State v. Paige, 2018-Ohio-813**

Sentencing

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/o/2018/2018-Ohio-813.pdf>

**“Trial court did not impose improper split sentence by sentencing defendant to prison term on one count and concurrent community-control sanction on separate count.”**

**“Trial court lacked authority under R.C. 2929.41(A) to order, as part of defendant’s community-control sanction, that he be placed in a community-based correctional facility (“CBCF”) after his completion of separate prison term.”**

### **Sixth Circuit Court of Appeals**

*Nothing to report.*

### **Supreme Court of the United States**

*Nothing to report.*