

Appellate Court Decisions - Week of 4/10/17

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

First Appellate District of Ohio

In re: W.M., T.M., M.J., K.H.1. and K.H.2, 2017-Ohio-1398

Custody

Full Decision:

http://www.hamiltoncountyohio.gov/UserFiles/Servers/Server_3788196/File/releases/C-170003_04142017.pdf

Summary from the First District:

“Where the magistrate’s finding that mother had failed to remedy the conditions that had led to the removal of her children from her home was supported by competent and credible evidence, the trial court did not err in adopting the magistrate’s decision granting permanent custody of the children to the Hamilton County Department of Job and Family Services.

“Although the reasonable-efforts requirement in R.C. 2151.419 does not apply to an R.C. 2151.413 motion for permanent custody, absent a narrowly defined statutory exception, the state must still make reasonable efforts to reunite the family during the custody proceedings prior to the termination of parental rights.”

State v. McLendon, 2017-Ohio-1399

Appellate Review: Final Order: Jurisdiction

Full Decision:

http://www.hamiltoncountyohio.gov/UserFiles/Servers/Server_3788196/File/releases/C-160267_04142017.pdf

Summary from the First District:

“A judgment of conviction is a final appealable order when it sets forth (1) the fact of conviction, (2) the sentence, (3) the judge’s signature, and (4) the entry on the journal by the clerk of courts.

“Where the judgment of conviction does not contain the fact of conviction, it is not a final appealable order, and the appeal from that judgment must be dismissed.”

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

State v. Jackson, 2017-Ohio-1369

Search: Motion to Suppress

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/8/2017/2017-Ohio-1369.pdf>

The trial court erred in denying Appellant’s motion to suppress evidence seized from his person as a result of a traffic stop. The police officer initiated the traffic stop that lead to the search because three people were sitting a vehicle on the side of the street in a “high-gang area” at 11 p.m. The Eighth District held that the character of the area in question was not a “sufficient basis for [the officer’s] reasonable suspicion that a crime was afoot at the time he initiated the investigatory stop.” Rather, the stop was based on a “mere hunch.”

Ninth Appellate District of Ohio

State v. Reppucci, 2017-Ohio-1313

Speedy Trial

Full Decision:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/9/2017/2017-Ohio-1313.pdf>

Appellant was charged with an OVI and an OVI refusal to submit to a chemical test while having a previous OVI conviction within the past 20 years. He filed a motion to suppress. On June 27, 2014, the trial court held a hearing on the motion to suppress. It did not issue its decision denying the motion to suppress until December 14, 2015. After the decision, Appellant moved to dismiss the case based on a violation of his speedy trial rights. The trial court denied the motion to suppress.

This was not a complex case factually or legally. Appellant never waived his speedy trial rights. The Ninth District reversed the denial of the motion to dismiss because the trial court unreasonably delayed ruling on the motion to suppress for 535 days, far more than the 90 days allowed.

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

Nothing to report.

Sixth Circuit Court of Appeals

Nothing to report.

Supreme Court of the United States

Nothing to report.