

## Appellate Court Decisions - Week of 4/21/14

### First Appellate District of Ohio

#### **State v. Johnson, 2014-Ohio-1751**

**Jurisdiction: Sentencing**

**Full Decision:** <http://www.sconet.state.oh.us/rod/docs/pdf/1/2014/2014-ohio-1751.pdf>

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

“Where the trial court had sentenced the defendant and the sentencing entry had been journalized, the court’s judgment had become final and the trial court had no jurisdiction to modify the defendant’s sentence.”

#### **In Re: T.D., 2014-Ohio-1752**

**Juvenile: Appellate Review: Jurisdiction**

**Full Decision:** <http://www.sconet.state.oh.us/rod/docs/pdf/1/2014/2014-ohio-1752.pdf>

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

“Because a juvenile adjudication does not subject the juvenile to a felony sentence, the state does not have the right to appeal the disposition in a juvenile case under R.C. 2945.67(A) and 2953.08(B).

“Because the state did not have an appeal of right from the juvenile court’s judgment, it was required to seek leave to appeal under Crim.R. 5(C); since it did not, the appellate court has no jurisdiction to hear the appeal.”

### 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. Stevens, 2014-Ohio-1703***

New Trial: Juror: Voir Dire

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/5/2014/2014-ohio-1703.pdf>

The Fifth District remanded Appellant's conviction for murder (among other charges and specifications) for further proceedings to determine if he was materially prejudiced and whether a for-cause challenge of a juror would have succeeded where that juror failed to disclose that his sister had been a victim of a particularly brutal rape and murder.

## Sixth Appellate District of Ohio

***Toledo v. Burns, 2014-Ohio-1669***

Speedy Trial

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/6/2014/2014-ohio-1669.pdf>

The trial court erred in denying Appellant's motion to dismiss for a violation of his speedy trial rights where: 1. The trial court inexplicably delayed ruling on his motion suppress for four years; 2. Appellant's motion to suppress revoked his speedy trial time waiver and the case was not set for trial before speedy trial time ran out.

## Seventh Appellate District of Ohio

*Nothing new.*

## Eighth Appellate District of Ohio

### ***State v. Woods, 2014-Ohio-1722***

Aggravated Murder: Sufficiency of the Evidence

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2014/2014-ohio-1722.pdf>

The Eighth District modified Appellant's conviction for aggravated murder to a conviction for murder where the State failed to present sufficient evidence that Appellant acted with prior calculation and design. Appellant picked up a prostitute and took her to a 10-room boarding house, then murdered her, presumably after having sex. None of the evidence was sufficient to show any sort of planning.

### ***State v. Williams, 2014-Ohio-1728***

Motion to Suppress: Search

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/8/2014/2014-ohio-1728.pdf>

The trial court did not err in granting Appellee's motion to suppress where police received an anonymous tip suggesting drug activity, at night, in a high-drug area between a white four-door Chrysler and a black Oldsmobile Alero, but Appellee was found standing near a white four-door Dodge a few blocks away from the referenced area.

## Ninth Appellate District of Ohio

### ***State v. Ross, 2014-Ohio-1675***

Sentencing: Plea: Allied Offenses

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/9/2014/2014-ohio-1675.pdf>

The trial court erred in sentencing Appellant on both counts to which he pled guilty where he and the state agreed that the counts were allied as part of the agreed plea, and the state elected on which count to sentence him.

## Tenth Appellate District of Ohio

*Nothing new.*

## Eleventh Appellate District of Ohio

*Nothing new.*

## Twelfth Appellate District of Ohio

### **State v. Conley, 2014-Ohio-1699**

**Criminal Damaging: Sufficiency of the Evidence**

Full Decision:

<http://www.supremecourt.ohio.gov/rod/docs/pdf/12/2014/2014-ohio-1699.pdf>

Appellant's conviction for criminal damaging was not based on sufficient evidence where no evidence, direct or circumstantial, was presented that the damage was done without the victim's consent. The victim did not testify. There was also no evidence he called the police, filed an insurance claim, or received an estimate to repair the damage.

## Supreme Court of Ohio

*Nothing new.*

## Sixth Circuit Court of Appeals

*Nothing new.*

## Supreme Court of the United States

### **Navarette et al. v. California, No. 12-9490**

**Note: Find the time to read Justice Scalia's dissent. It's worth it.**

**Fourth Amendment: Traffic Stop: Search: Marijuana: Intoxication**

Full Decision: [http://www.supremecourt.gov/opinions/13pdf/12-9490\\_3fb4.pdf](http://www.supremecourt.gov/opinions/13pdf/12-9490_3fb4.pdf)

## **Syllabus of the Court:**

“A California Highway Patrol officer stopped the pickup truck occupied by petitioners because it matched the description of a vehicle that a 911 caller had recently reported as having run her off the road. As he and a second officer approached the truck, they smelled marijuana. They searched the truck’s bed, found 30 pounds of marijuana, and arrested petitioners. Petitioners moved to suppress the evidence, arguing that the traffic stop violated the Fourth Amendment. Their motion was denied, and they pleaded guilty to transporting marijuana. The California Court of Appeal affirmed, concluding that the officer had reasonable suspicion to conduct an investigative stop.

“*Held*: The traffic stop complied with the Fourth Amendment because, under the totality of the circumstances, the officer had a reasonable suspicion that the truck’s driver was intoxicated. Pp. 3-11.

“(a) The Fourth Amendment permits brief investigative stops when an officer has ‘a particularized and objective basis for suspecting the particular person stopped of ... criminal activity.’ *United States v. Cortez*, 449 U.S. 411, 417-418. Reasonable suspicion takes into account ‘the totality of the circumstances,’ *id.*, at 417, and depends ‘upon both the content of information possessed by police and its degree of reliability,’ *Alabama v. White*, 496 U.S. 325, 330. An anonymous tip alone seldom demonstrates sufficient reliability, *White*, 496 U.S., at 329, but may do so under appropriate circumstances, *id.*, at 327. Pp. 3-5.

“(b) The 911 call in this case bore adequate indicia of reliability for the officer to credit the caller’s account. By reporting that she had been run off the road by a specific vehicle, the caller necessarily claimed an eyewitness basis of knowledge. The apparently short time between the reported incident and the 911 call suggests that the caller had little time to fabricate the report. And a reasonable officer could conclude that a false tipster would think twice before using the 911 system, which has several technological and regulatory features that safeguard against making false reports with immunity. Pp. 5-8.

“(c) Not only was the tip here reliable, but it also created reasonable suspicion of drunk driving. Running another car off the road suggests the sort of impairment that characterizes drunk driving. While that conduct might be explained by another cause such as driver distraction, reasonable suspicion ‘need not rule out the possibility of innocent conduct.’ *United States v. Arvizu*, 534 U.S. 266, 277. Finally, the short period that he followed the truck did not dispel the reasonable suspicion of drunk driving, and the officer was not required to surveil the truck for a longer period. Pp. 8-10.”